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W.A.No.1828 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.06.2024

CORAM

THE HONOURABLE Mr.JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE Mr.JUSTICE C.KUMARAPPAN

W.A.No.1828 of 2021
and
CMP.No.11575 of 2021

1. The Deputy Inspector General of Police,
Salem, Salem District.

2. The Superintendent of Police,
Salem, Salem District.

... Appellant

Vs.

R.Jayaraman

... Respondent

Prayer: Writ Appeal filed under Clause 15 of Letters Patent praying to set aside the order dated 21.01.2020 made in W.P.No.23801 of 2010.

For Appellants : Mr.T.Chandrasekaran
Special Government Pleader

For Respondent : No Appearance



W.A.No.1828 of 2021

WEB COPY

J U D G M E N T

[Judgment of the Court was delivered by **S.M.SUBRAMANIAM, J.**]

The Writ Order setting aside the punishment of postponement of increment for two years without cumulative effect is under challenge in the present Writ Appeal preferred by the Deputy Inspector General of Police. The respondent was working as Grade-I Police Constable. A charge memorandum was issued under Rule 3(b) of the Tamil Nadu Police Subordinate Service (Discipline and Appeal) Rules and 4 charges were framed. The respondent submitted his explanations denying the charges. Not satisfying with the explanation, the Disciplinary Authority appointed an Enquiry Officer to conduct domestic enquiry. The Enquiry Officer held that the charge nos.(1) and (2) are proved and (3) and (4) are not proved. The proved charges are as under:-

“(1) Leaving the headquarters police station i.e., Tholasampatty Police Station without any permission or leave from the competent authority and visited Sellampalayam and Thalaivasal, Attur Taluk on 14.02.2005.

(2) Reprehensible and indisciplinary conduct in having absented for duties from 14.02.2005 night onwards for more



W.A.No.1828 of 2021

than 21 days without any permission or leave from higher officers and deserted the police force thus violated the Police Standing Order No.95 Volume-I.”

2. Based on the proved charges, the Disciplinary Authority issued second show cause notice and after affording opportunity to submit objections on the findings of the Enquiry Officer, passed final order imposing the punishment of postponement of next increment for two years without cumulative effect. The Appeal preferred by the respondent was rejected by the Appellate Authority. Thus, the respondent preferred the writ petition. The learned Single Judge made a finding in the order impugned that admittedly on 14.02.2005, the writ petitioner/respondent was given permission to take rest. Even if allegations were made that he went out of the jurisdiction of Police Station, materials on record reveal that he went out for taking treatment at Government Hospital. Since his health was not well, he had applied for medical leave. Therefore, it is clear that the petitioner had gone out only to take treatment. Such a factual finding by the Writ Court in a disciplinary proceedings for the purpose of setting aside the permission is beyond the scope of the powers of judicial review.



W.A.No.1828 of 2021

WEB COPY

3. The High Court while exercising the powers of judicial review in punishment cases must ensure that the Rules of natural justice must be followed or not. The punishment imposed is in proportionate with the gravity of the proved charges or the Rules governing the disciplinary proceedings are followed. Mere factual recording by the learned Single Judge to set aside the order of punishment imposed by the Disciplinary Authority as confirmed by the Appellate Authority would be insufficient and beyond the scope of powers of judicial review.

4. In the present case, 4 charges were framed against the respondent. Charge nos.(1) and (2) alone are held proved and charge nos.(3) and (4) are held not proved. The Disciplinary Authority accepted the enquiry report and imposed the minor penalty of postponement of increment for 2 years without cumulative effect on the proved charges i.e., (1) and (2). The Writ Court found that the procedures as contemplated under the Discipline and Appeal Rules were followed. However, set aside the punishment by reappreciating the material evidences placed before the Disciplinary Authority and Appellate Authority. The High court is not expected to sit as Disciplinary Authority or the Appellate Authority for reappreciating the facts, which were adjudicated



W.A.No.1828 of 2021

as confirmed by the Disciplinary Authority and Appellate Authority. Further, there is no material to distinguish the facts, which were already adjudicated in the enquiry proceedings. That being the factum, we are inclined to interfere with the order impugned.

5. Accordingly, the Writ order impugned dated 21.01.2020 passed in WP.No.23801 of 2010 is set aside. The Writ Appeal stands allowed. No costs. Consequently, connected CMP is also closed.

[S.M.S., J.] [C.K., J.]
10.06.2024

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Index : Yes

Speaking order : Yes

Neutral Citation : Yes/No



WEB COPY



W.A.No.1828 of 2021

S.M.SUBRAMANIAM, J.
and
C.KUMARAPPAN, J.

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W.A.No.1828 of 2021

10.06.2024