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W.A.No.1268 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.04.2024

CORAM

THE HON'BLE MR. JUSTICE R. MAHADEVAN
AND
THE HON'BLE MR. JUSTICE MOHAMMED SHAFFIQ

W.A.No.1268 of 2024

C.Rajamohan

Appellant

v

1. The Director General of Police
Tamil Nadu Police Head Quarters
Kamarajar Salai, Chennai 600 005
2. The Deputy Commissioner of Police
Traffic (North)
Chennai
3. The Additional Commissioner of Police
Traffic Zone
Chennai 600 007

Respondents

Writ Appeal filed under Clause 15 of the Letters Patent, against the order
dated 21.09.2023 passed in W.P.No.3075 of 2018.

For appellant Mr. Kovi Ganesan
 for Mr.S.Prem Raj Kumar

For respondents Mr.Yashwanth
 Additional Government Pleader



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J U D G M E N T

(delivered by R. MAHADEVAN, J.)

This writ appeal impugns the order dated 21.09.2023 passed by a learned Judge in W.P. No.3075 of 2018.

2 A broad outline of the facts which necessitated this writ appeal being filed is given below:

2.1 The appellant, while serving as a Police Constable in Manali Traffic Police Station, was issued with a charge memo dated 09.07.2013 by the Additional Commissioner of Police (third respondent herein) under Rule 3(b) of the Tamil Nadu Police Subordinate Services (Discipline & Appeal) Rules, 1955, for dowry demand in cash and kind [violation of Rule 4(5)(i)(ii) of the Tamil Nadu Police Conduct Rules, 1964)], illicit relationship with other ladies, including the wife of his colleague and elopement with her deserting his family and by being absent from duty [violation of Rule 23(1), *ibid.*] and agreeing for reunion with his wife initially, but, subsequently, reneging and harassing her, thereby, subjecting her to mental agony [violation of Rule 23(2), *ibid.*].



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2.2 After conducting a full-fledged enquiry, the Assistant Commissioner of Police, Traffic Investigation (West), as the Enquiry Officer, *vide* his minute dated 06.04.2014, held the charges as proved, in pursuance whereof, the third respondent herein, *vide* order dated 25.06.2014, inflicted on the appellant, the punishment of compulsory retirement from service with immediate effect.

2.3 Thereagainst, circumventing the appeal remedy, though available, the appellant filed a mercy petition before the Director General of Police (the first respondent herein), who rejected the same on 30.11.2017.

2.4 Hence, assailing the order of compulsory retirement from service passed by the third respondent on 25.06.2014, the appellant preferred the writ petition in W.P.No.3075 of 2018.

2.5 The learned Judge, by order dated 21.09.2023, observing that without exhausting the appeal remedy and without assigning any reason therefor, the appellant had filed mercy petition, that too, after close to two years, which has been rejected and that under Article 226 of the Constitution of India,



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the High Court cannot sit in appeal over the findings of the Enquiry Officer or as an appellate authority, over the punishment by the Disciplinary Authority, dismissed the writ petition.

2.6 Calling into question the legality and validity of the aforesaid order, this writ appeal has been preferred.

3 The learned counsel for the appellant, after advancing arguments for some time, eventually submitted that he confines the relief to the extent of this Court granting permission to the appellant to prefer a statutory appeal before the first respondent within a time frame.

4 The learned Additional Government Pleader also submitted that he has no objection in this Court granting permission as sought by the learned counsel for the appellant.

5 In view of the above, this Court permits the appellant to prefer a statutory appeal before the first respondent within a period of three weeks from the date of receipt of a copy of this judgment and within a period of eight weeks from the date of such filing, the appellant's appeal shall be considered by the



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first respondent purely on merits and in accordance with law, and orders passed, of course, after providing sufficient opportunity to the appellant.

This writ appeal stands disposed of accordingly, sans costs.

[R.M.D,J.]

[M.S.Q,

J.]

24.04.2024

Neutral Citation : Yes/No
gya/cad

To

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