



WEB COPY

WA No.1252 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12-06-2024

CORAM

THE HONOURABLE MR.JUSTICE S.M. SUBRAMANIAM

And

THE HONOURABLE MR. JUSTICE C.KUMARAPPAN

WA No.1252 of 2021

M.Balachandran

.. Appellant

-VS-

1.The Director General of Police,
Tamil Nadu, Chennai-600 004.

2.The Additional Director General of Police
and Commissioner of Police,
Egmore,
Chennai-600 008.

3.The Deputy Commissioner of Police,
Armed Reserve, Egmore,
Chennai-600 008.

.. Respondents

Writ Appeal is preferred under Clause 15 of the Letters Patent against
the order passed by this Court in WP No.16646 of 2007 dated 11.03.2019.



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For Appellant : Mr.M.Gnanasekar
For Respondents : Mr.S.John J.Raja Singh,
Additional Government Pleader.

J U D G M E N T

[JUDGMENT OF THE COURT WAS DELIVERED

BY S.M.SUBRAMANIAM, J.]

The punishment of dismissal from service as confirmed by the Writ Court is under challenge in the present Intra Court Appeal.

2. The appellant was recruited as Grade II Police Constable in Tamil Nadu Police Services and a charge memo was issued under Rue 3(b) of the Tamil Nadu Subordinate Services (Discipline and Appeal) Rules, 1955. The charge framed against the appellant is as under:-

“Misconduct – By sending a postal letter addressed to the Inspector of Police, B-4 Police Station, Coimbatore on 15.04.1998 nd also writing under the Heading “Grievances of Policemen” Tamil Nadu! Come to rescue to the bonded labourers namely policemen and



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attempting to create a shame to the Police Department and the Government of Tamil Nadu.”

3. The appellant submitted his statement of defence. Not satisfied with that, an Enquiry Officer was appointed, who in turn conducted an enquiry and held that the charge is held proved against the delinquent policeman. Accepting the final enquiry report, the Disciplinary Authority imposed the punishment of dismissal from service. The criminal case registered against the appellant ended with an order of acquittal.

4. The appeal and the review preferred by the appellant were rejected. However, the punishment of dismissal was converted as “removal”. The appellant challenged the dismissal order by filing original application before the Tamil Nadu Administrative Tribunal in the year 2003 and the said original application was transferred to the High Court and renumbered as WP No.16646 of 2007.

5. The Writ Court dismissed the writ petition on the ground that the petitioner was a member of Special Police Force in the State of Tamil



Nadu and based on the proved charges, he was removed from service. The charge memo framed against the petitioner was that while he was working at Coimbatore, he sent several anonymous letters addressed to the Inspector of Police, B-4 Police Station, Coimbatore, writing under the heading “Grievances of Policemen” Tamil Nadu. He has stated in the said anonymous letters that the policemen are treated as bonded labourers, which is shameful to the Police Department.

6. The learned Single Judge found that the matter involves discipline and therefore, the punishment of removal from service is in accordance with the Service Rules.

7. Mr.M.Gnanasekar, learned counsel appearing on behalf of the appellant would submit that the original application was filed in the year 2003, which was transferred and renumbered by the High Court and the grounds raised regarding the proportionality of punishment was not considered by the learned Single Judge.



8. The learned Additional Government Pleader appearing on behalf of the respondent would oppose by stating that the appellant was sending several such anonymous letters stating that the policemen are treated as bonded labourers, which is shameful to the Police Department. The said letters caused dis-reputation to the Police Force. Therefore, the departmental disciplinary proceeding was initiated. The procedures as contemplated were scrupulously followed and the rules of natural justice has been complied with. Thus, there is no infirmity and the Writ Appeal is to be rejected.

9. Considering the arguments as advanced between the parties to the lis on hand, no doubt, there is no infirmity in the charge memo. The anonymous letters sent to the Inspector of Police, B-4 Police Station, Coimbatore involved reputation of the Police Department. A policeman working in the Police Department has written anonymous letters to the Inspector of Police stating that the policemen are treated as bonded labourers, which is shameful to the Police Department.



10. Therefore, we have no doubt that the letters involve disciplinary aspect and the Police Department has rightly initiated departmental disciplinary proceedings. The procedures as contemplated under the Discipline and Appeal Rules were followed. The rules of natural justice has been complied with.

11. The appellant defended his case before the enquiry proceedings. The enquiry report was relied upon by the Disciplinary Authority and the punishment of dismissal from service was imposed. The appeal and the revision filed by the appellant were rejected. The Writ Court also dismissed the writ petition.

12. Beyond the due process followed in the disciplinary matter, we are inclined to consider the case of the appellant only on the ground of proportionality of punishment. No doubt, writing anonymous letters by Policemen is a misconduct. However, we found that such anonymous letters are not written against any individual police higher officials or against any other person. The letters seem to be written out of frustration by the Policemen and therefore, the punishment of dismissal from service in our



opinion is harsh. The appellant, even before the enquiry proceedings, given a statement that due to the instigation of his colleagues, he had written such anonymous letters and not with an intention to spoil the image of the Police Department.

13. Pertinently, the colleagues, who were working along with the appellant said that the handwriting of the appellant was good and made him to write such anonymous letters, which resulted in departmental disciplinary proceedings.

14. More-so, those anonymous letters are addressed only to the Inspector of Police, B-4 Police Station, Coimbatore and not communicated to the higher officials by the appellant.

15. Rules of natural justice has been complied with and the appellant has conceded that on account of instigation of other colleague policemen, he was made to write such anonymous letters only to the Inspector of Police and he had no intention to cause any dis-reputation to the Police Force.



16. The appellant has conceded the above facts before the Disciplinary Authority and before this Court. Therefore, the authorities ought to have taken a lenient view regarding the quantum of punishment imposed and further initiate corrective measures to maintain high discipline in the Police Force. With reference to certain misconducts, correctional measures are also of paramount importance. Since higher officials do commit certain mistakes or ill-treat the subordinates on some occasions, the mitigating factors are to be taken into consideration while imposing punishment in such nature of cases. High standard of discipline in the Police Force is of paramount importance but certain internal issues are to be resolved by the higher officials then and there, so as to avoid such nature of reactions from the subordinate Police officials are avoided. Such nature of misconducts are relatable to the corresponding behaviour of the higher officials in the Police Department. Humane and logical approach is required to regulate the disciplinary aspects in the Force.

17. The departmental disciplinary proceeding was rightly initiated. The rules of natural justice and the procedures as contemplated under the rules were followed in the departmental disciplinary proceedings. We do not



find any infirmity in the procedures followed by the authorities competent.

The charge also held proved against the appellant. The punishment of dismissal imposed by the Disciplinary Authority was converted as an order of removal from service. But we are inclined to consider the quantum of punishment imposed on the proved charges which seems to be excess.

18. The appellant is out of service for about 23 years and the case filed by him before the Tamil Nadu Administrative Tribunal in the year 2003 is pending for the past about 20 years. This itself is a punishment for the appellant. The appellant has left with nine (9) more years of service. Normally, the High Court, while forming an opinion that the quantum of punishment is disproportionate and shocking to the conscience of the Court, the matter will be remanded back to the Disciplinary Authority for imposing any other lesser punishment under the Discipline and Appeal Rules. In the present case, we are not inclined to remand the matter since the case filed by the appellant against the order of dismissal is pending for more than 20 years and remanding the matter again will result in great prejudice to the litigant.



19. Considering the facts and circumstances, we are inclined to interfere with the order of the writ Court and the orders passed by the Disciplinary Authority, Appellate Authority and Revisional Authority, only on the quantum of punishment of removal from service imposed on the appellant. Accordingly, the following orders are passed:

- (i) the writ order dated 11.3.2019, passed in W.P.No.16646 of 2007 is set aside,
- (ii) the respondents are directed to reinstate the appellant into service within a period of four weeks from the date of receipt of a copy of this order,
- (iii) the appellant is not entitled to claim any back wages or any other monetary benefits for the period for which he was out of employment,
- (iv) the appellant is entitled for continuity of service only for the limited purpose of reckoning the qualifying services and for pensionary benefits.

20. With the above directions, the present Writ Appeal stands



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allowed. However, there shall be no order as to costs.

(S.M.SUBRAMANIAM,J.) (C.KUMARAPPAN,J.)

12-06-2024

Index : Yes/No
Internet: Yes/No
Speaking order/Non-Speaking order
Neutral Citation : Yes/No
Svn/Sh

To

- 1.The Director General of Police,
Tamil Nadu,
Chennai-600 004.
- 2.The Additional Director General of Police
and Commissioner of Police,
Egmore,
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- 3.The Deputy Commissioner of Police,
Armed Reserve,
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S.M.SUBRAMANIAM, J.
AND
C.KUMARAPPAN, J.

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W.A.No. 1252 of 2021

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