



W.A.No.3446 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.11.2024

CORAM

**THE HONOURABLE MR.JUSTICE R.SURESH KUMAR
and
THE HONOURABLE MR.JUSTICE C.SARAVANAN**

**W.A.No.3446 of 2024
and
C.M.P.No.26744 of 2024**

1. The State of Tamil Nadu,
Represented by its Additional Chief Secretary to Government,
Revenue and Disaster Management Department,
Secretariat,
Fort St.George,
Chennai - 600 009.
2. The Principal Secretary / Commissioner of
Revenue Administration,
Chepauk,
Chennai - 600 005.
3. The Commissioner,
Directorate of Adi Dravidar Welfare,
Chepauk,
Chennai - 600 005.
4. The District Collector,
Vellore District,
Vellore.

... Appellants

-Vs-

D.Baskaran
S/o.C.Damodharan

... Respondent



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PRAYER : Appeal filed under Clause 15 of Letters Patent, to set aside the order in W.P.No.16230 of 2020 dated 16.11.2023 and allow the above writ appeal.

For Appellants : Mr.M.Alagu Goutham
Government Advocate

For Respondent : Mr.J.Jayamalan
for Mr.S.Nedunchezhiyan

J U D G M E N T

(Judgment of the Court was delivered by **R.SURESH KUMAR, J.**)

This intra-Court appeal has been directed against the order passed by the writ Court dated 16.11.2023 in W.P.No.16230 of 2020.

2. As against the respondent, there has been a charge of not informing power of the officer who passes the transfer order to the staff. As the officer who passed the transfer order was not supposed to pass the transfer order since the power is only vested with the Director, the respondent / delinquent, being the Superintendent working under the officer who passed such a transfer order, has not brought to the notice of the officer regarding his power which was the main charge out of the three charges framed against the respondent / delinquent.

3. The said charge has been proved for which the punishment of



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compulsory retirement has been awarded against the respondent / delinquent, as against which, he moved the writ Court by filing the above said writ petition.

4. The learned writ Court having gone through the facts in detail has come to the conclusion that, assuming that the charge framed against the delinquent has been proved, for such a delinquency, whether the punishment of compulsory retirement is proportionate or not was the matter that has been gone into by the writ Court and ultimately, the writ Court found that, it was disproportionate punishment, therefore, alternatively, yet another major punishment of withholding of increment for three years with cumulative effect has been suggested and imposed, as against which, the State has preferred this appeal.

5. Heard Mr.M.Alagu Goutham, learned Government Advocate appearing for the appellants and Mr.J.Jayamalan, learned counsel appearing on behalf of Mr.S.Nedunchezhiyan for the respondent.

6. The nature of the charge was that, the respondent / delinquent being the Superintendent did not bring it to the notice of the officer who passed the transfer order when he does not have such a power and it ought to be exercised



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only by the Director.

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7. This position must be known to the officer concerned who passes an order. Assuming that, being the Superintendent, he could have also brought to the notice of the officer concerned and he failed in that aspect, it may be a dereliction of duty, for which, such a huge punishment of compulsory retirement whether is proportionate or not was the matter to be gone into, that has been gone into by the learned Judge in the reasoned order and ultimately, the learned Judge found that, such a huge punishment does not proportionate to the proven charge.

8. It is a settled legal proposition that, if the punishment awarded shocks the conscience of the Court, certainly, the Court would interfere in such disproportionate punishment and award an alternative suitable punishment within the frame of the service law.

9. Herein the case in hand, the alternative punishment awarded by the learned Judge through the impugned order itself is a major punishment, therefore, we do not find any error in the said approach of the learned Judge. Therefore, this Writ Appeal fails and it is dismissed. However, there shall be no



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order as to costs. Consequently, connected miscellaneous petition is closed.

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(R.S.K., J.) (C.S.N., J.)

25.11.2024

NCC : Yes / No

Index : Yes / No

Speaking Order : Yes / No

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