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W.A. No.15 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 14.10.2024

DELIVERED ON: 29.10.2024

CORAM:

**THE HONOURABLE MR. JUSTICE D.KRISHNAKUMAR
and**

THE HON'BLE MR.JUSTICE P.B.BALAJI

W.A.No.15 of 2024

and CMP. No.113 of 2024

- 1.The Inspector General of Police,
Economic Offences Wing-I,
Headquarters, Admiralty Building,
Government Estate, Chennai – 600 002.
- 2.The Additional Director General of Police,
(Law and Order), Santhome High Road,
Mylapore, Chennai – 600 004.
- 3.The Joint Commissioner of Police,
South Zone, Greater Chennai City Police,
St. Thomas Mount, Chennai – 600 016.

.. Appellants

Vs

- 1.P.A.Appasamy
S/o.Late Adikesavan,
Inspector of Police, Economic Offence Wing II,
(Headquarters) Tamil Nadu Housing
Board Building, III Floor, 2nd Main Road,
Anna Nagar, Chennai – 600 040.



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2.R.Arun, IPS,
Deputy Commissioner of Police,
Enquiry Officer, St. Thomas Mount,
Chennai 600 016.

..Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent to set aside the impugned order dated 31.10.2022 made in W.P. No.10910 of 2008 and allow the Writ Appeal.

For Appellants : Mr.P.Kumaresan,
Additional Advocate General
assisted by Mrs.S.Anitha,
Special Government Pleader

For Respondents : Mr.K.Ramesh for R1
Not Ready for R2

J U D G M E N T

(Judgment of the Court was made by MR.JUSTICE P.B.BALAJI, J.)

The Department aggrieved by the order of the Writ Court in W.P.No.10910 of 2008 dated 31.10.2022 is the appellant.

2. The first respondent herein filed the writ petition praying for challenging the order passed by the appellants herein, imposing punishment of reduction in rank as Sub-Inspector of Police.



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3. We have heard Mr.P.Kumaresan, learned Additional Advocate General, assisted by Mrs.S.Anitha, learned Special Government Pleader and Mr.K.Ramesh, learned counsel for the first respondent.

4. According to the learned Additional Advocate General, the writ petitioner was appointed as a Sub-Inspector of Police (direct recruit) on 29.09.1997. He was found fit for promotion in the list of Sub Inspectors for the panel year 1997-1998 and he was promoted as Inspector of Police on 15.12.1999. While he was working in Palavanthangal Police Station, the appellant was charged under Rule.3(b) of the The Tamil Nadu Police Subordinate Service (Discipline and Appeal) Rules,1995 on seven counts namely;

“1. Gross insubordination in sending reports against the Sub Inspector of Police Thiru.Jagadeeswaran directly to Senior Officers without routing it through proper channel;

2. In-disciplinary conduct in having sent false reports against Thiru. Jagadeeswaran to wreck vengeance against the S.I. and spoil his image among the Police and the public;

3. Reprehensive behavior and grave misconduct in having argued and shouted back at Assistant Commissioner of Police, Madipakkam during his visit to the Police Station on 17.05.2005 at 17.30 hours.

4. Grave misconduct in having collected and accepted illegal gratification of Rs.30,000/- from an one Thiru K.N. Krishnan concerned



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in Pazavanthangal P.S. Crime No.304/2005 u/s. 294(b) IPC on 30.03.2005 to release him.

5. Perfunctory investigation in Pazavanthangal P.S. 304/2005 u/s. 294(b) IPC on 30.03.2005 to allow Crime No. the accused to go out from the Police Station after getting a bribe without making entries in the G.D. Sentry Relief Book, Bail Bond, C.S.R. etc.

6. Grave misconduct in having permitted H.C. 1882 Chinnasamy of Pazavanthangal P.S. to use the two wheeler XL. Super TN 09 6253 recovered from the accused Baskar concerned in Pazavanthangal P.S. Crime No.325/2003 u/s. 379 IPC for his own use, and

7. Grave dereliction of duty in making entries in the Station G.D. against the Asst. Commissioner of Police, Madipakkam of the arguments that had taken place in the Police Station on 17.05.2005.”

5. The learned Additional Advocate General would submit that before the disciplinary proceedings, after serving charge memo on the first respondent and receiving his preliminary explanation, an Enquiry Officer was nominated and at the time of Enquiry, 17 witnesses were examined on the side of the prosecution and 30 documents were also filed through the various witnesses. On the side of the first respondent, some documents were marked as prosecution Exhibits and some were rejected as being not relevant to enquiry, in and by memorandum dated 09.11.2006 issued by the Enquiry Officer himself. The first respondent did not produce any defence witness and also did not submit any further written statement of defence and therefore, the Enquiry Officer completed the enquiry and held all the seven



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charges to be proved.

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6. The disciplinary authority agreed with the findings of the Enquiry Officer and called upon the first respondent to give further representation. However, the said opportunity was not availed of by the first respondent and therefore, the disciplinary authority proceeded to impose a penalty of *“Reduction in the rank of Sub Inspector of Police for a period of three years to be spent on duty”* with immediate effect viz., 27.12.2007. Challenging the same, the first respondent has moved this Court and the Writ Court set aside the order of the Appellate Authority and allowed the Writ Petition.

7. According to the learned Additional Advocate General, the Writ Court has not taken into consideration the guidelines issued by the Hon'ble Supreme Court especially pertaining to disciplinary proceedings. He would further submit that all the seven counts were found against the first respondent and the offences are also grave in nature and if the view of the Writ Court is upheld, it would open the flood gate to other police personnel



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to get away from punishment, even despite serious misconduct.

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8. Per contra, the learned counsel for the first respondent would submit that the Writ Court has rightly found that the first respondent was due to retire in four months time. The learned counsel would further submit that despite the order of this Court in W.P.No2028 of 2008 dated 25.01.2008, directing the disciplinary authority to consider the written statement of defence, the same has not been complied with and no reasons have also been assigned by the Appellate Authority to reject the grounds raised by the writ petitioner in WP.No.2028 of 2008. Therefore, he would contend that no interference is warranted with the order of the Writ Court.

9. We have carefully considered the arguments advanced by the learned counsel on either side and perused the documents available on record.

10. The Writ Court has chosen to interfere with the order passed by the disciplinary authorities mainly on the ground that the first respondent is



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due to superannuate shortly and the fact that he was promoted as Deputy Superintendent of Police much later than his juniors itself was punitive in nature and no further punishment would be necessary. The Writ Court also found that after the order passed by this Court in WP.No.2028 of 2008, the 2nd respondent has not abided by the directions of the Writ Court, by considering the written submissions of defence filed by the writ petitioner.

11. From the records, we are able to see that despite the order passed by the disciplinary authority imposing punishment of reduction in rank for a period of three years, in Appeal, the Appellate Authority has applied its mind and reduced the punishment of reduction in rank for a period of only 6 months. Therefore, we are unable to countenance the submissions of the learned counsel for the first respondent that the Appellate Authority has not applied its mind and has proceeded to pass order, disregarding the orders passed by Writ Court in WP.No.2028 of 2008. When the Enquiry Officer as well as the Disciplinary Authority have concurrently found that the charges, seven in number, have all been proved and charges were also not those which can be likely let off, the Courts below ought to be slow in interfering



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with such concurrent findings arrived at by the disciplinary authorities.

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12. The jurisdiction of this Court exercising its power under Article 226 of Constitution of India is limited only to ensure that principles of natural justice have been followed by the administrative bodies and there is no perversity on the face of the impugned proceedings. As already discussed, we have found that the Appellate Authority has applied its mind independently and has chosen to take a lenient view by reducing the punishment originally imposed by the disciplinary authority. Therefore it does not lie in the mouth of the writ petitioner to even contend that his objections have not been taken note of.

13. The law is well settled with regard to jurisdiction of Courts and its power to interfere with findings of disciplinary authorities. In the case of *B.C.Chaturvedi V. Union of India*, reported in (1995) 6 SCC 749, held that the power of review is only restricted to ensure that the individual receives fair treatment and not to ensure that the conclusion which the authority reaches is necessarily correct in the eyes of the Court.



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14. In the case of *State of Karnataka V. N.Ganagaraj*, reported in (2020) 3 SCC 423, the Hon'ble Supreme Court again reiterated that once evidence has been accepted by the Departmental Authority, in exercise of power of judicial review, the Tribunal or the High Court cannot interfere with the findings of fact recorded by re-appreciating evidence as if the Courts are appellate authority.

15. Even recently, in *State of Rajasthan Vs Bhupendra Singh*, reported in 2024 SCC Online SC 1908, the Hon'ble Supreme Court elaborately discussed the scope of examination and interference under Article 226 of the Constitution of India and held that re-appreciation of evidence by Writ Court is impermissible and unless the punishment imposed by the Disciplinary Authority of the Appellate Authority shocks the conscience of the Court, there is no scope for interference.

16. For all the above reasons, we are constrained to interfere and set aside the order of the Writ Court.



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17. In fine, the Writ Appeal is allowed and the order of the Writ Court is set aside and thereby this Court confirms the order of the 2nd respondent in Rc.No.162096/AP.3(3)/2007 dated 01.04.2008. Consequently, connected Miscellaneous Petition is also closed. There shall be no order as to costs.

(D.K.K.J.,) (P.B.B.J.,)

29.10.2024

Internet: Yes/No
Index : Yes/No
Speaking Order/Non Speaking Order
rkp

To

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D. KRISHNAKUMAR. J.,

and

P.B.BALAJI, J.

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Pre-delivery Judgment in

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