



W.A.(MD) No.2117 of 2021

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.07.2024

CORAM

JUSTICE N. SESHASAYEE

and

JUSTICE P.VADAMALAI

W.A.(MD) No.2117 of 2021

and

C.M.P.(MD) No.9833 of 2021

- 1.The Principal Secretary to the Government,
Home (Pol.IV) Department,
Fort St. George, Chennai-600 009.
- 2.The Director General of Police,
Office of the Director General of Police,
Dr.Radhakrishnan Salai,
Mylapore, Chennai-600 004.
- 3.The Commissioner of Police,
Tiruchirappalli City,
Tiruchirappalli.
- 4.The Deputy Commissioner of Police (Law & Order),
Tiruchirappalli City,
Tiruchirappalli.

... Appellants/
Respondents



W.A.(MD) No.2117 of 2021

WEB COPY

Vs.

K.Senthil Kumar

... Respondent/Petitioner

Prayer: Appeal filed under Clause 15 of Letters Patent against the order dated 26.11.2019 made in W.P.(MD) No.22459 of 2018 on the file of this Court.

For Appellants : Mr.A.Baskaran
Additional Government Pleader

For Respondent : Mr.VR.Shanmuganathan

JUDGMENT

(Judgment of the Court was delivered by N.Seshasayee, J.)

This appeal is preferred challenging an order passed in W.P.(MD) No.22459 of 2018 and the issue here relates to the quantum of punishment imposed on the respondent herein.

2. The facts are:

(a) On 16.06.1993, the respondent herein was appointed as Grade-II Police Constable. While so on 10.07.2000, he along with another Constable Rajkumar were served with charge memo, wherein it was alleged that both the respondent and his colleague abused the women Constables,



W.A.(MD) No.2117 of 2021

WEB COPY

who were sent along with them for picking up some women prisoners from Central Prison.

(b) The enquiry on the charge memo concluded and it ended in the fourth appellant imposing a punishment of reduction in pay on both the delinquents by three stages with cumulative effect, *vide* his proceedings dated 20.11.2000. This order was *suo motu* reviewed by the third appellant, who *vide* his proceedings dated 24.04.2001, imposed punishment of compulsory retirement on the present respondent. The respondent challenged the same before the second appellant and that was dismissed. His further review followed by a mercy petition to the Government ended in vain. Hence, he approached this Court in W.P.(MD) No.22459 of 2018.

(c) The learned Single Judge, in her order, has noted that the co-delinquent of the respondent was punished only with reduction in salary by three stages with cumulative effect and not with compulsory retirement. However, in the concluding paragraph, the learned Single Judge has held that the entire punishment itself is bad in law.

This is now under challenge in this appeal.



W.A.(MD) No.2117 of 2021

WEB COPY

3. The learned Additional Government Pleader appearing for the appellants submitted that the finding of the learned Single Judge that the entire penalty is bad in law requires reconsideration, since the respondent has not challenged his original order of dismissal. When the alleged misconduct is established, necessarily it should be invited with the punishment. Secondly, the learned Single Judge omitted to note that the co-delinquent of the respondent has also suffered such an identical punishment of compulsory retirement, but he challenged it before the State Administrative Tribunal and the State Administrative Tribunal modified the punishment into one of reduction in the salary by three stages with cumulative effect. Having said, the learned counsel brought to the notice of this Court proceedings of the third appellant dated 14.10.2020, in which he had modified the order of compulsory retirement into one of reduction in pay by three stages for three years with cumulative effect.

4. The learned counsel for the respondent submitted that inasmuch as the co-delinquent had suffered some punishment, it would be only fair that the



W.A.(MD) No.2117 of 2021

respondent is also imposed the same penalty. He however added that this punishment took effect on 20.11.2000, the date on which the fourth respondent had passed the very punishment now imposed.

5. This Court finds that the submissions made on behalf of the learned counsel for the respondent merit consideration. This Court, therefore directs the third appellant to execute the punishment now imposed on 14.10.2020 and rework the respondent's entire pay accordingly. If anything in excess has been paid to the respondent, the same is recoverable by the authorities and other service benefits are also required to be reworked accordingly. The appeal is accordingly disposed of. No costs. Consequently, connected miscellaneous petition is closed.

(N.S.S., J.) (P.V.M., J.)
09.07.2024

NCC : Yes/No
Index : Yes/No
Internet : Yes

ABR



W.A.(MD) No.2117 of 2021

WEB COPY

To

- 1.The Principal Secretary to the Government,
Home (Pol.IV) Department,
Fort St. George, Chennai-600 009.
- 2.The Director General of Police,
Office of the Director General of Police,
Dr.Radhakrishnan Salai,
Mylapore, Chennai-600 004.
- 3.The Commissioner of Police,
Tiruchirappalli City,
Tiruchirappalli.
- 4.The Deputy Commissioner of Police (Law & Order),
Tiruchirappalli City,
Tiruchirappalli.



WEB COPY



W.A.(MD) No.2117 of 2021

N. SESHASAYEE, J.
and
P.VADAMALAI, J.

ABR

W.A.(MD) No.2117 of 2021

09.07.2024