



W.A(MD)No.892 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.06.2024

CORAM :

**THE HONOURABLE MR.JUSTICE R.SURESH KUMAR
and
THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN**

W.A(MD)No.892 of 2024

V.S.Kalivarathan

... Appellant

vs.

1. The Principal Secretary to Government,
Home Department,
Fort St.George,
Chennai-600 001.

2.The Director General of Police,
Mylapur,
Chennai-600 004.

3.The Additional Director General of Police,
Mylapur, (Law and Order),
Chennai-600 004.

4.The Deputy Inspector General of Police,
Trichy Range,
Trichirapalli.

... Respondents

Prayer : Appeal filed under Clause 15 of the Letters Patent, against the order dated 13.02.2023 made in W.P(MD)No.2576 of 2018.

For Appellant : Mr.G.Karthik for Mr.S.Rajasekar
For R1 to R4 : Mr.A.Kannan, Additional Government Pleader



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JUDGMENT

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

This intra-court appeal has been directed against the order passed by the Writ Court dated 13.02.2023 made in W.P(MD)No.2576 of 2018.

2. The petitioner, while was working in the police department, faced a departmental proceedings. Charges framed against him were enquired and the enquiry officer found that the charges framed against him have been proved, based on which, the disciplinary authority inflicted the punishment of reduction of one stage of increment/pay for one year with cumulative effect. The said punishment inflicted against the petitioner/appellant was appealed to the appellate authority and the appellate authority, has modified the punishment into without cumulative effect, as against which, the petitioner/appellant filed writ petition, where the said modified order of the appellate authority, was set aside and the matter was remanded back to the appellate authority for re-consideration.

3. On re-consideration, the appellate authority having accepted the view taken by the disciplinary authority, has confirmed the punishment, that is,



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with cumulative effect, as against which, the petitioner/appellant filed the said writ petition.

4. The Writ Court, having heard the matter, has refused to interfere with the said punishment awarded by the disciplinary authority, confirmed by the appellate authority, thereby, the writ petition was dismissed. Aggrieved over the same, the present intra-court appeal has been directed.

5. Heard Mr.G.Karthik learned counsel for Mr.S.Rajasekar, learned counsel on record for the appellant and Mr.A.Kannan, learned Additional Government Pleader appearing for the respondents.

6. We have gone through the detailed enquiry officer's report, where, majority of 12 witnesses on the prosecution side, though had been enquired by the enquiry officer, have turned hostile.

7. Except one or two witnesses, since majority of them have become hostile, some benefit of doubt can be given to the delinquent. Though in departmental proceedings, preponderance of probability is the criterion to be followed and it need not be proved beyond reasonable doubt as in the case of a



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criminal case before the trial Court, after having gone through the enquiry officer's report and taking note of the fact that, the appellant having reached the superannuation, has retired from service, the punishment of one stage reduction with cumulative effect will have some repercussion to the service benefits, including the pensionary benefits of the petitioner/appellant.

8. Therefore, considering the totality of the situation, we are inclined to modify the said punishment as that was inflicted against him originally by the appellate authority by way of modified punishment and accordingly, the punishment imposed against the disciplinary authority as confirmed by the appellate authority vide order dated 21.02.2017 which was impugned before the Writ Court, is hereby modified into the reduction of pay by one stage for one year without cumulative effect. Accordingly, the petitioner/appellant would be entitled to get only the pensionary benefits.

9. With this modification of the punishment, the Writ Appeal is ordered accordingly. No costs.

(R.S.K., J.) (G.A.M., J.)
07.06.2024

Index : Yes / No
Neutral Citation : Yes / No



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