



W.A(MD)No.926 of 2016

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.04.2024

CORAM

**JUSTICE N. SESHASAYEE
and
JUSTICE P.VADAMALAI**

W.A(MD) No.926 of 2016

V.Kumaravel

... Appellant/Petitioner

Vs.

- 1.The Home Secretary,
Secretariat,
Government of Tamil Nadu,
Fort Saint George,
Chennai – 600 009.
- 2.The Director General of Police,
(Law and Order),
Office of the DGP,
Kamarajar Salai,
Chennai 4.
- 3.The Deputy Inspector General of Police,
Office of the DIG, (Madurai Range),
Madurai.
- 4.The Superintendent of Police,
Madurai District,
Alagarkovil Road,
Madurai.



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5.The Superintendent of Police,
Virudhunagar District,
Virudhunagar.

6.Mr.S.R.Jhangid, IPS,
ADGP,
Vigilance Officer,
TNSTC Depot,
Nagercoil.

7.Mr.A.John Rose,
(Retd.) Additional Superintendent of Police,
Madurai District Police Office,
Madurai.

8.Mr.Baskaran,
Deputy Superintendent of Police,
DCRB,
Tirunelveli District,
Palayamkottai – 627 002.

... Respondents/Respondents

Prayer: Appeal filed under Clause 15 of the Letters Patent, against the order dated 25.11.2015 made in W.P(MD)No.20919 of 2015.

For Appellant :M/s.Jana @ B.Janath Ahmed

For R-1 to R-5 :Mr.Veera Kathiravan,
Additional Advocate General, assisted by,
Mr.N.Muthuvijayan,
Special Government Pleader

For R-6 & R-7 :Mr.Isaac Mohanlal, Senior Counsel for
M/s.Isaac Chambers



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JUDGMENT

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

The appellant herein challenges the order of a learned Single Judge in W.P(MD)No.20919 of 2015, dated 25.11.2015.

2. The only grievance with which the appellant approached this Court is that he as a Sub-Inspector of Police has approached his higher authorities to initiate departmental action against the respondents 6 and 7, who according to him, had been singularly responsible for multiple transfers he suffered in 1999-2000. His further grievance is that when he went to meet his Superintendent of Police to express his grievance, he was falsely implicated in a case in Crime No.135 of 2000 on the file of Soolakarai Police Station as if he is trying to intimidate his superior officials. Later, an enquiry was held in the matter and it was decided to close the said criminal case, but, there is a further direction to proceed against the appellant departmentally.



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3. It is in this process of these enquiries, it has been found by the Deputy Inspector General of Police concerned that the seventh respondent had behaved in a high-handed manner. This got subsequently reflected in a couple of proceedings as well.

4. Be that as it may, the appellant had, after the closure of case in Crime No.135 of 2000, approached this Court in W.P(MD)No.11204 of 2011 wherein he has sought compensation of Rs.1.0 crore for his illegal custody. That came to be dismissed by a learned Single Judge on 28.03.2018, and on an appeal preferred by the appellant in W.A(MD)No.1544 of 2018, this Court awarded him a compensation of Rs.5,00,000/-. This Court is informed that the Government had preferred a review application in Rev.Aplc(MD)No.18 of 2023 for making provision for realisation of the said sum from those who are responsible for creating the situation to pay. This Court is now informed that the said sum of Rs.5,00,000/- has already been deposited by the Government in Court.



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5. Be that as it may, so far as the present writ petition is concerned, the learned Single Judge had dismissed it after recording the statement from the respondents that the Department did not find any material worthy of initiating departmental action against the seventh respondent. This reasoning of the learned Single Judge is now under challenge in this writ appeal.

6. Heard both sides. The learned counsel for the appellant was persistent in relying on certain findings of his Superior Officials wherein they have observed that the seventh respondent had behaved in a high-handed manner or otherwise had harassed the appellant. It appears that these observations were not made in any enquiry after notice to either the 6th respondent or the 7th respondent. They are internal notes and therefore, the correctness of the said finding itself is in doubt.

7. This apart, this Court is informed today that both the 6th and 7th respondents have superannuated. As per Rule 9 of the Tamil Nadu Pension Rules, 1978, the Government can initiate departmental action against any of its employees only for those misconduct which are alleged to have taken place within four



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years next before the date of retirement. So far as the present case is concerned, the alleged act of high-handedness appeared to have had taken place more than a decade before the superannuation.

8. There is a larger issue which required to be addressed : what exactly is a right of an employee to seek departmental action against his colleague - subordinate or superior. If any Government employee makes a life of another Government employee miserable, then the Department may have the obligation to protect the interest of the aggrieved employee and may initiate departmental action. But, does any public servant has a right to insist his employer for initiating a disciplinary action against another employee? To state it differently, a mere right to state one grievance may create a circumstance for an employer to deal with the employee unless there are statutory Rules specifically govern the area. Even then, the employer may require *prima facie* material to initiate a domestic enquiry against one of its employees.

9. It is in this regard, certain findings or observations of certain superior



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officials of the appellant about the alleged high-handed behaviour of the seventh respondent become critical. As already stated, they appeared to be observations and not borne out of any internal enquiry. Indeed, one of these observations says that on discrete enquiry, it has come to the knowledge of the official concerned that the seventh respondent has behaved in a high-handed manner. So far as the very grievance of the appellant is concerned, at this distant point of time, this could either be his perception or it could be even a real reason for the appellant suffering multiple transfers within a short time. Since transfer is an exigency of service, a mere transfer without proof of malafide by itself may not lead to any presumption that it was because of certain malafides.

10. The conclusion is to state the obvious. This appeal is dismissed without costs. Having stated thus, it is to be underscored that the dismissal of this appeal will not have any effect on the pending review application, for the issue involved in that case essentially relates to the entitlement of the appellant to seek compensation for his alleged illegal custody pursuant to the registration of the case in Crime No.135 of 2000.



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11. In the present order, this Court does not say anything about the innocence or otherwise of the seventh respondent but merely holds that there is no right in appellant to compel the employer to initiate domestic enquiry more so when the concerned employee against whom it is sought to be initiated has superannuated.

(N.S.S., J.) (P.V.M., J.)
23.04.2024

NCC : Yes/No

Index : Yes/No

PM

To

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