



WP(MD)No.14109 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 13.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP(MD)No.14109 of 2018
and
WMP(MD)No.12782 of 2018

M.Nazar

.. Petitioner

v.

1.The Director General of Police,
Dr.Radhakrishnan Salai,
Mylapore,
Chennai.

2.The Superintendent of Police,
Sivagangai District,
Sivagangai.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Certiorari calling for the records relating to the impugned punishment order passed by the second respondent in Tha.Pa.No.H1/104/2008 dated 18.03.2009 and quash the same.



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For Petitioner : Mr.C.Venkatesh Kumar

For Respondents : Mr.P.T.Thiraviam
Government Advocate

ORDER

The petitioner, while he was working as a Grade II Constable, was unauthorizedly absent for a period of 21 days. Therefore, he was declared as a deserter vide D.O.No.166/2008 in C.No.J2/5318/189/2008 dated 27.02.2008. He was issued with a charge memo dated 16.11.2008 and finally, he was imposed with a punishment of postponement of increment for one year with cumulative effect, vide the impugned order dated 18.03.2009. As against the same, the petitioner has filed a mercy petition. It was also rejected. Therefore, the petitioner has filed this writ petition.

2.Learned Government Advocate, on instructions, submitted that the punishment imposed itself is a lenient one, given the charge made as against the petitioner. The petitioner was a deserter and his previous



conduct was also not good. He has also produced a list of cases, in which, the petitioner was imposed with punishment.

3.This Court considered the rival submissions made on either side and perused the materials placed on record.

4.The scope of judicial review in matters relating to disciplinary proceedings is very limited. It is meant to ascertain as to whether due process was followed and whether a fair opportunity was accorded to the employee concerned. The power of Courts is limited to reviewing the decision making process, rather than the merits of the decision itself. This is to ensure fairness in treatment and not the fairness of the conclusion. The Courts should not interfere with the findings of the fact arrived at in the departmental enquiry proceedings, except in cases of mala fide or perversity.

5.The petitioner has filed this writ petition as against the order of punishment, imposed for desertion. Desertion is a serious one, insofar as



Police Department is concerned. However, the petitioner has not canvassed any violation of procedures as contemplated under the Act / Rules or any mala fide or perversity. In the absence of any contravention of any of the procedures as contemplated under the Act / Rules, this Court, in the writ jurisdiction, is not inclined to interfere with the impugned order of punishment by appreciating / re-appreciating the evidence.

6.The petitioner claims that he is having a good track record. However, it is disputed by the respondents and from the papers submitted by the respondents, it appears that the petitioner, apart from the present charge [PR.104/2008] was imposed with punishment in five charges [PR. 80/1992, PR.34/2006, PR.15/2009, PR.84/2009, PR.108/2023]. Of these five charges, two charges are for the delinquency committed prior to the present charge and three charges are for the delinquency committed after the present charge.

7.Since the petitioner has not made out any ground for the interference by this Court in the writ jurisdiction, this writ petition stands



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dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

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

13.11.2024

To

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Mylapore,
Chennai.

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B.PUGALENDHI, J.

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