



W.A.(MD).No.593 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 13.03.2024

CORAM:

THE HONOURABLE **MRS.JUSTICE V.BHAVANI SUBBAROYAN**
and
THE HONOURABLE **MR.JUSTICE K.K.RAMAKRISHNAN**

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and
C.M.P.(MD).No.4941 of 2017

- 1.The Secretary to Government,
Department of Home Affairs,
Secretariat, Fort St. George,
Chennai.
- 2.The Director General of Police,
Kamarajar Salai,
Chennai.
- 3.The Superintendent of Police,
Virudhunagar District.

... Appellants

Vs.

Loganathan (died)
1.Jegadeeswari
1st respondent is substituted in the place of the
deceased first respondent vide Court order dated
06.03.2024 made in C.M.P.(MD).No.234 of 2019
in W.A.(MD).No.593 of 2017.

- 2.The Enquiry Officer,
Deputy Superintendent of Police,
Sivakasi,
Virudhunagar District.

... Respondents



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Prayer: Writ Appal is filed under Clause 15 of Letters Patent, against the order of this Court in W.P.(MD).No.19496 of 2013, dated 01.12.2016.

For Appellants : Mr.A.K.Manikkam
Special Government Pleader
For R1 : Mr.M.Thirunavukkarasu
For R2 : No appearance

J U D G M E N T

(Judgment of the Court was delivered by **V.BHAVANI SUBBAROYAN, J.**)

This writ appeal has been filed against the order of the learned single Judge passed in W.P.(MD).No.19496 of 2013, dated 01.12.2016, wherein the petitioner has challenged the order of the first respondent in G.O.(2D).390, dated 01.08.2013, by confirming the order of the second respondent in Proceedings No.RC.No.1380/AP/II/(3)/2005, dated 28.01.2005 and the third respondent in P.R.No.63/2003, dated 07.02.2004 and to quash the same and consequently direct the respondents to pay all the consequential attendant, service and monitory benefits.



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2. The case of the petitioner is that he was appointed as Constable on 23.12.1985 and posted to Armed Reserve, Sivakasi Battallion. Thereafter, he was given posting in the local Police Station. Subsequently, he was transferred to Seithur Police Station, Virudhunagar District. While he was working as Constable at Seithur Police Station, on 18.04.2003, at about 18.00 hrs. he was posted for bandopasth duty at Thalavaipuram Temple. While he was on bandhopasth duty, the Sub Inspector of Police Mr.Kannan called the petitioner and allotted another duty of night rounds. Hence, he requested the said Sub Inspector of Police to post any other constable, who are not in bandhopasth duty for night rounds. While so, the Inspector of Police Rajamannar threatened him. The petitioner has explained the same before the Inspector of Police. Aggrieved over the same, the said Sub Inspector of Police Mr.Kannan reported to the Inspector as if he scolded him with filthy words. The Inspector of Police on sudden provocation assaulted in his face. Thereafter, a criminal complaint has been registered against the petitioner in Crime No.81 of 2003 under Section 4(1)(J) of Tamil Nadu Prohibition Act r/w. Section 75 of Tamil Nadu Chennai Police Act. On 06.07.2012, they have dropped the said criminal case. Thereafter, on 06.06.2003, they have initiated departmental proceedings against the petitioner. The third respondent by proceedings dated 01.07.2003, issued a



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charge memo No.56/03. Immediately, the petitioner has given his explanation.

But, without discussing any of the findings of the enquiry report, the disciplinary authority has arbitrarily concluded that the petitioner has committed the delinquency. Without any speaking order, the disciplinary authority have passed the order of punishment on 07.02.2004. Hence, he preferred an appeal before the second respondent on 01.12.2004, which was rejected by the second respondent, on 28.01.2005. Against the order of second respondent, he preferred a revision before the first respondent on 23.09.2011, which was also rejected by the Government by G.O.(2D).390, dated 01.08.2013. Challenging the same, the writ petition has been filed.

3. The respondents have filed a counter denying all the averments made in the affidavit stating that the petitioner was placed under suspension with effect from 19.04.2003 F.N. for his reprehensible conduct in having misbehaved with Thiru.Kannan, Sub-Inspector of Police, Seithur Police Station on 18.04.2003 at 22.00 hrs., in a drunken state of mind. Subsequently, the Deputy Superintendent of Police, Rajapalayam has been nominated to conduct preliminary enquiry against the writ petitioner. In the preliminary enquiry report, the Inquiry officer has stated that *prima facie* case has been made out against the petitioner and also recommended to initiate departmental



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disciplinary proceedings against the petitioner. Accordingly, a charge under Rule 3(b) of the Tamil Nadu Police Subordinate Service (Disciplinary and Appeal) Rules, 1955 was framed against the petitioner. The Deputy Superintendent of Police, Sivakasi Sub-Division conducted an enquiry and examined the witnesses and recorded the statements of prosecution witnesses and also recorded the statement of defence witnesses produced by the petitioner. The petitioner also submitted his written explanation to the Inquiry Officer on 09.10.2003. The Inquiry Officer concluded that the charge framed against the petitioner was not proved vide minute dated 31.10.2003 and forwarded the same to the disciplinary authority. The disciplinary authority had disagreed with the findings of the Inquiry Officer and hence, a dissenting minute dated 27.12.2003 was drawn on the grounds that the Inquiry Officer had failed to take strong points in support of prosecution and the same was served on the petitioner on 09.01.2004 with instruction to submit further written representation on the dissenting minute. The petitioner also submitted further written representation on 19.01.2004. After carefully gone through the records of the disciplinary proceedings, the competent disciplinary authority awarded the punishment of postponement of next increment for a period of one year and the period of postponement shall operate to postpone future increments. The learned single Judge of this Court allowed the writ petition by setting aside the



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impugned order of the respondents and directed the respondents to provide all the consequential attendant service and monetary benefits within a period of six weeks from the date of receipt of a copy of that order. Challenging the same, the present writ appeal has been filed by the State.

4. The learned counsel appearing for the appellants would submit that on 18.04.2003, while the petitioner was working as Constable in Seithur Police Station, he was posted for bandobust duty in Dalavoipuram Temple. While in service, under the influence of alcohol, he had misbehaved with the Sub Inspector of Police and used filthy language against him. Therefore, charges were framed against him on 01.07.2003 under Rule 3(b) of the Tamil Nadu Police Subordinate Service (Discipline and Appeal) Rules. After enquiry, the third respondent has passed the final order on 07.02.2004, imposing the punishment of postponement of next increment for a period of one year. He would further submit that the said person is no more and his wife is substituted as the first respondent. The two grounds raised by the petitioners are that the impugned orders are non-speaking orders and the disciplinary authority had not assigned any reason for taking dissenting view from the findings of the enquiry and the same are unsustainable both in law and on facts. The dissenting note dated 27.12.2013, assigns not only reasons, but reasons which are cogent,



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sufficient and are satisfactory. Further, during the pendency of the criminal case, disciplinary proceedings were initiated against the first respondent and hence, at the request of the prosecution, the learned Judicial Magistrate, Rajapalayam stopped the proceedings against the first respondent under Section 258 of Cr.P.C. The learned single Judge had not assigned any convincing reason for allowing the writ petition

5. Heard Mr.A.K.Manikkam, learned Special Government Pleader appearing for the appellants and Mr.M.Thirunavukkarasu, learned counsel appearing for the first respondent and perused the materials available on record.

6. It is seen that the report of the Enquiry Officer has categorically held that the charges against the petitioner are not proved. But this aspect was not at all gone into by the Superintendent of Police, Virudhunagar District, the third appellant herein. Hence, the dissenting minutes issued by the third appellant dated 27.12.2003, is not acceptable and sustainable. Further, the petitioner has categorically deposed that no medical examination was conducted to prove the drunkenness of the petitioner and the Constables 1204, 2146 and 2143 are all interesting witnesses. Hence, the learned single Judge of this Court has rightly set aside the impugned order. Further, the petitioner also



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worked for 19 years and no adverse remarks have been made against him except the punishment under challenge in the writ petition and it is only a foisted case and there is no merit in this writ appeal.

7. In the result, this Writ Appeal is dismissed and the appellants are directed to pay all the terminal benefits to the legal heirs of the deceased person within a period of twelve weeks from the date of receipt of a copy of this judgment. No costs. Consequently, the connected Miscellaneous Petition is closed.

[V.B.S.,J.] & [K.K.R.K.,J.]
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Index : Yes/No
Internet : Yes/No
NCC : Yes/No

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