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W.P.(MD) No.19396 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.09.2024

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.(MD) No.19396 of 2017

M.Mohandass

... Petitioner

-VS-

1.The Deputy Inspector General of Police
Dindigul Range, Dindigul

2.The Superintendent of Police
Office of the Superintendent of Police
Dindigul

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus calling for the records pertaining to the impugned proceedings of the first respondent through his proceedings No.A.P-14/A2/2015 dated 04.06.2015 confirming the order passed by the second respondent *vide* his proceedings in S.C.No.15/2015 dated 25.03.2015 in P.R.No.38/2013 u/r 3(b) of TNPSS (D&A) Rules, 1955 dated 14.03.2015 and quash the same.



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For Petitioner : Mr.K.Manikandan

For Respondents : Ms.D.Farjana Ghoushia
Special Government Pleader

ORDER

This writ petition has been filed challenging the order, dated 14.03.2015, passed by the Disciplinary Authority / second respondent as well as the order dated 04.06.2015, passed by the Appellate Authority / first respondent, under which the petitioner has been imposed with the punishment of “postponement of next increment for three years, which shall operate to postpone his future increments”.

2. The petitioner is a Grade-II Police Constable. He has been charged in the disciplinary proceedings initiated against him by the respondents. Two charges were framed against him and they are as follows:

- (i) F.I.R. has been registered against the petitioner in Crime No.52 of 2012, for the alleged offences under Sections 498(A), 294(b) and 109 I.P.C., based on the complaint given by his wife and



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subsequently, the said crime number was transferred from the file of the All Women Police Station, Dindigul, to the file of the All Women Police Station, Nilakkottai and renumbered as Crime No.2 of 2013.

- (ii) The petitioner was unauthorizedly absent for a period of sixteen days from 15.12.2012 to 30.12.2012.

3. The petitioner was charged under Rule 3(b) of the Tamil Nadu Police Subordinate Service (Discipline and Appeal) Rules, 1955. An Enquiry Officer was appointed by the second respondent. The petitioner participated in the enquiry proceedings. The Enquiry Officer held in the enquiry report that the charges framed against the petitioner have been proved and the petitioner was found guilty. Based on the enquiry report, the Disciplinary Authority, namely, the second respondent awarded a punishment of “postponement of next increment for three years, which shall operate to postpone his future increments”, by his order dated 14.03.2015. Aggrieved by the same, the petitioner preferred an appeal before the Appellate Authority,



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namely, the first respondent. The first respondent rejected the petitioner's appeal, in his order dated 04.06.2015. Aggrieved by the orders passed by the second respondent and first respondent, as stated supra, this writ petition has been filed.

4. Admittedly, an F.I.R., was registered against the petitioner under Sections 498(A), 294(b) and 109 I.P.C., in Crime No.52 of 2012, on the file of the All Women Police Station, Dindigul, based on a complaint lodged by his wife. Learned counsel for the petitioner would submit that the said criminal case has now ended in acquittal. However, as seen from the records, only due to the fact that the petitioner has obtained a mutual consent divorce from his wife and only based on the same and by giving benefit of doubt to the petitioner, he has been acquitted from the criminal case. In disciplinary proceedings, adjudication is made on preponderance of probabilities. While in a criminal case, the prosecution has to prove the case beyond reasonable doubt. Therefore, in the criminal case, wherein the petitioner has been acquitted only on the ground that he has obtained a mutual consent divorce from his wife and benefit of doubt was given to him, cannot aid the petitioner in the disciplinary proceedings initiated against him. The punishment



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imposed on the petitioner is only a postponement of next increment for three years, which shall operate to postpone his future increments. It is also brought to the notice of this Court by the learned Special Government Pleader appearing for the respondents that subsequent to the filing of this writ petition, the petitioner has also been promoted, which fact is also not disputed by the learned counsel for the petitioner. Only based on the evidence available on record, namely, F.I.R., and charge sheet filed against petitioner in the criminal proceedings, the Disciplinary Authority as well as the Appellate Authority have held that the petitioner is guilty of the first charge and is liable to be punished for the punishment as stated supra. This Court does not find any infirmity in the said finding rendered by the authorities, which is challenged in this writ petition.

5. Insofar as the second charge framed against the petitioner, namely, unauthorized absence is concerned, the Enquiry Officer in the enquiry proceedings has taken note of the fact that the medical certificate issued by the Medical Officer, Government Hospital, Batlagundu, for forty days medical leave from 15.12.2012, was produced by the petitioner only during the course of oral enquiry, which was conducted on 04.07.2014. He



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failed to produce any medical certificate prior to the date of his unauthorized absence. Admittedly, the petitioner was absent without obtaining prior permission from his higher officials for a period of sixteen days from 15.12.2012 to 30.12.2012. The petitioner is working in the police force and he has to maintain discipline. Unauthorized absence of the petitioner for a long period of sixteen days, when he is working in the police force, has been rightly taken serious note of by the Enquiry Officer in his enquiry report as well as in the orders passed by the Disciplinary Authority / second respondent and the Appellate Authority / first respondent. The unauthorized absence of the petitioner that too when he is working in the police force cannot be treated to be trivial in nature. The punishment imposed on the petitioner, namely, postponement of next increment for three years, which shall operate to postpone his future increments, is a just punishment and therefore, the question of interfering with the same by this Court in a writ petition filed under Article 226 of the Constitution of India does not arise. This Court, while sitting under Article 226 of the Constitution of India, cannot reappreciate the evidence, when the evidence available on record clearly proves that the petitioner is guilty of the charges framed against him in the disciplinary proceedings initiated against him.



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6. For the foregoing reasons, this Court does not find any merit in this writ petition. Accordingly, this writ petition is dismissed. No costs.

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

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To:

- 1.The Deputy Inspector General of Police,
Dindigul Range, Dindigul.
- 2.The Superintendent of Police,
Office of the Superintendent of Police,
Dindigul.



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ABDUL QUDDHOSE, J.

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