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W.P.No.3125 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.12.2025

CORAM:

THE HONOURABLE MR. JUSTICE T.VINOD KUMAR

W.P.No.3125 of 2019

H.Rajkumar

... Petitioner

vs

1. The Director General of Police,
Office of the Director General of Police,
Mylapore, Chennai – 600 004.
2. The Deputy Inspector General of Police,
Coimbatore Range,
Coimbatore.
3. The Superintendent of Police,
The Niligiris District,
Ootacamund.

... Respondents

Prayer: Writ Petitions are filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records of the proceedings of the respondents in order passed by the first



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respondent through review proceedings Rc.No.114253/A.P.1(1)/2018 dated 04.08.2018 by confirming the dismissal order passed in appeal by the second respondent through Na.Ka.No.8260/D2/13 dated 16.09.2013 in confirming the order of removal from service passed by the third respondent through his proceedings C.No./H1/PR80/2012 u/r 3 (b) dt 16.08.2013 and quash the same as illegal, incompetent and *ultra vires* and consequently directing the first respondent to reinstate the petitioner in the post of Head Constable with all back wages and monetary benefits within a stipulated time frame as prescribed by this Court.

For Petitioner : Mr.M.Venkatesah
for Mr.R.Jayaprakash

For Respondents : Mrs.V.Yamunadevi
Special Government Pleader

ORDER

Heard the learned counsel for the petitioner and the learned Special Government Pleader appearing on behalf of the respondents and perused the records.



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2. The case of the petitioner in brief is that he had joined the service as Police Constable, Grade-II, through the Tamil Nadu Uniformed Services Recruitment Board on 16.04.1997; that he was upgraded to the post of Grade-I Police Constable in the year 2007 and further, promoted as Head Constable in the year 2013.

3. The petitioner contended that based on the complaint made by one Parimala on 17.04.2011, a police complaint was registered against him and further, on the basis of a motivated petition dated 19.04.2011, filed against him, disciplinary proceedings were initiated; that the petitioner was issued with a charge memo dated 16.08.2012, containing two articles of charge; that despite giving explanation, the enquiry Officer submitted a report stating that the charges “as proved”; and that on the basis of the enquiry report, the third respondent issued proceedings dated 16.08.2013, removing the petitioner from service.



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4. The petitioner further contended that aggrieved by the aforesaid punishment awarded to him of removal from service, he had filed an appeal to the second respondent on 27.08.2013 and the second respondent, by his order dated 16.09.2013, dismissed the appeal.

5. It is the further case of the petitioner that aggrieved by the aforesaid order dismissing the appeal filed by him, he had filed review before the first respondent on 26.11.2013; that on the first respondent not disposing of the aforesaid review, he had approached this Court by filing writ petition *vide* W.P.No.4858 of 2014 and on this Court disposing of the aforesaid writ petition, *vide* order 31.05.2018, directing the first respondent to dispose of the appeal/review within a period of four weeks from the date of receipt of the copy of the order, the first respondent passed order thereafter on 04.08.2018, rejecting the petition filed by him, seeking review of the order to the third



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respondent in visiting him with penalty as removal from service, as confirmed by the second respondent in rejecting the appeal.

6. Aggrieved by the aforesaid order of the first respondent confirming the orders of the second respondent and third respondent, the present writ petition is filed.

7. Counter affidavit on behalf of the third respondent is filed.

8. The third respondent, by the counter affidavit, contended that based on the complaint submitted by one Ms.Parimala stating that the petitioner represented to her that he was a divorcee and on the pretext of marrying her, lead a family life with her in Raj Bhavan Police Quarters at Door No.7, N-Block, for a period of 10 months and the complainant further stated that she became pregnant; that the petitioner took her to a Doctor to



abort the foetus; and that based on the aforesaid complaint, orders were issued to the Deputy Superintendent of Police to conduct preliminary enquiry; and that the said Deputy Superintendent of Police, after conducting enquiry, found that the allegations made by the complainant are true.

9. By the counter affidavit, it is further contended that based on the preliminary enquiry conducted by the Deputy Superintendent of Police, Armed Reserve, Udhagamandalam, on the complaint lodged by Ms.Parimala, the petitioner was issued with a charge memo under Rule 3 (b) of Tamil Nadu Police Subordinate Service (Discipline and Appeal) Rules, 1955, for the following delinquencies:-

(i) The delinquent Head Constable Tr.Rajkumar was leading a family life with one Parimala in Rajbhavan Police Quarters, N-Block, Door No.7 for a period of 10 months by making her believe that he was a divorcee and he would marry



her.

- (ii) The delinquent Head Constable Tr.Rajkumar made Ms.Parimala pregnant even though his legally wedded wife is alive and took her to Doctor to abort the foetus.

10. The respondent, by the counter affidavit, further contended that on the petitioner being issued with the aforesaid charge memo, the third respondent appointed the Enquiry Officer and a free and fair enquiry was conducted by the said officer. During the course of the enquiry, as many as 12 witnesses were examined and 14 Exhibits were marked on the side of the prosecution; and that P.W-1/Parimala clearly deposed in the enquiry that he was a divorcee and that on the pretext of marrying her, he lived with her for about 10 months in the Police Quarters.

11. By the counter affidavit, it is contended that the Enquiry Officer



having taken into consideration the submissions of the witnesses and the cross-examination done by the delinquent and the documents marked, submitted his report stating that the charges are proved and the petitioner is found guilty of the charges.

12. By the counter affidavit, the respondent contended that based on the proved minutes of the Enquiry Officer, the third respondent has awarded the petitioner with punishment of removal from service.

13. By the counter affidavit, it is further contended that the petitioner thereafter, having availed the remedy of appeal and review to the second respondent, and first respondent cannot claim that the punishment awarded to him is disproportionate or unjustified or that he was not subjected to medical examination.



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14. By the counter affidavit, it is contended that in order to prove the charges in a disciplinary proceedings, preponderance of probability is to be considered and not the strict rules of evidence.

15. Contending as above, the respondent seeks for dismissal of the writ petition.

16. I have taken note of the respective contentions as urged.

17. At the outset, it is to be noted that the High Court, under Article 226 of Constitution of India, does not act as an Appellate Authority by examining the evidence, as to whether on the basis of the evidence, the delinquent can be visited with the punishment as awarded by the disciplinary authority or the punishment awarded is disproportionate to the articles of charge. The scope of review by the High Court under Article 226 of



Constitution of India in only relation to decision making process, but, not to re-appreciate the evidence and substitute its own finding with that of the conclusion arrived at by the disciplinary authority, while awarding the punishment which punishment has also been upheld by the appellate authority. (*See: B.C.Chaturvedi vs. Union of India ((1995) 6 SCC 749)*)

18. Though an effort was made on behalf of the petitioner to take this Court through the chief and cross-examination recorded before the Enquiry Officer to contend that the charges levelled against the petitioner are not proved, it is to be noted that this Court in a Writ Petition under Article 226 of Constitution of India, cannot undertake the exercise of re-appreciation or re-evaluation of facts or evidence, thereby acting as an appellate authority.

(*See: State of Andhra Pradesh Vs. Chitra Venkata Rao ((1975) 2 SCC 557)*)

19. In the facts of the present case, since the petitioner was given



sufficient opportunity to disprove the articles of charge; and the petitioner having availed the said opportunity by cross-examining the witnesses produced on behalf of the prosecution, the scope of interference by a Writ Court on the limited ground of violation of principles of natural justice is also not available.

20. The only other ground of interference by a Writ Court against the disciplinary proceedings is as to whether the punishment awarded shocks the conscience of the Court. In the facts of the present case, since, the petitioner being a member of the Uniformed Service, ought to have conducted himself the manner befitting his service. The petitioner contrary to the conditions of service, acted in a manner bringing disrepute to the force. Thus, the punishment as awarded in the considered view of this Court, cannot be said as shocking the conscience of this Court to interfere with the same. (*See: Union of India Vs. Subrata Nath (2022 SCC Online SC 1617)*)



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21. Accordingly, this Court is of the view that the punishment as awarded to the petitioner is not disproportionate to the articles of charge nor shock the conscience of this Court.



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Accordingly, the Writ Petition as failed is devoid of merits and is

dismissed. No costs.

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Speaking order / Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

dh

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T. VINOD KUMAR, J.

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