



W.P.No.27154 of 2010

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.06.2025

CORAM:

THE HONOURABLE MR. JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.27154 of 2010

R.Viswanathan

... Petitioner

-Vs-

1.Secretary to Government,
Home Department,
Chennai – 600 009.

2.Director of Fire Services,
Egmore, Chennai – 600 008.

...Respondents

Prayer: Writ Petition filed under Section 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the second respondent herein in his proceedings in R.C.No.23088/B4/2006, P.R.No.4/2007 dated 12.03.2008 and the order passed by the first respondent herein in Government Order (Nilai) No.231 Home (Police-17) Department dated 26.02.2010 and quash the same and consequently direct the respondents herein to reinstate the petitioner into service with all consequential service and monetary benefits within a time frame and pass such further orders.

For Petitioner : Mr.E.Prakash Adiapadam

For Respondents : Mr.Yogesh Kannadasan,
Special Government Pleader



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ORDER

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This writ petition has been filed aggrieved by the order passed by the second respondent in his proceedings in R.C.No.23088/B4/2006, P.R.No.4/2007 dated 12.03.2008, whereby the punishment of removal from service was imposed on the petitioner as well as the order passed by the first respondent in an appeal filed by the petitioner vide Government Order (Nilai) No.231 Home (Police-17) Department dated 26.02.2010, whereby the punishment of removal from service was modified to that of compulsory retirement.

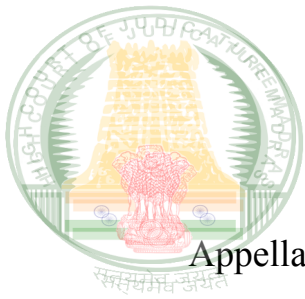
2. Though the learned counsel for the petitioner argued the matter at length by raising various contentions, considering the undisputed fact that the petitioner himself has admitted the charges levelled against him, and contended that he had signed the relevant bill claiming the travel allowance though he is not entitled for the same at the instance of the superintendent of the office, by name Thiru.L.Narayanan, this Court is not inclined to consider all such submissions made by the counsel for the petitioner by pointing out certain defects in the procedure that was followed by the second respondent in the matter of conducting disciplinary proceedings resulting in passing a



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final order in the disciplinary proceedings that was initiated against the petitioner. A perusal of the appeal filed by the petitioner before the first respondent against the order of removal dated 12.03.2008, disclosed that the petitioner has completed 20 years of unblemished service and there was no occasion where the petitioner was subjected to disciplinary proceedings in the entire service of 20 years except the one which is the subject matter of this writ petition. Further, it also disclosed that the petitioner had received about 40 awards during 20 years of service for the excellent service rendered by him. Perhaps keeping that in view only the Appellate Authority deemed it fit and appropriate to modify the punishment of removal from service to that of compulsory retirement, and accordingly, the order dated 26.02.2010 came to be passed duly modified punishment.

3. A perusal of the order passed by the first respondent/Appellate Authority dated 26.02.2010, would disclosed that the first respondent, instead of considering the appeal filed by the petitioner, the Appellate Authority having taken into consideration, the opinion expressed by the TNPSC, appears to have totally carried away by the opinion expressed by the TNPSC and proceeded to accept the same in a mechanical manner. The



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Appellate Authority is vested with powers to re-appreciate the entire evidence as well as the grounds raised by the petitioner in the appeal before it and then come to a proper conclusion by duly taking into consideration, all the contentions raised by the Petitioner herein and opinion of TNPSC. But in the instant case, a perusal of the impugned order passed by the Appellate Authority dated 26.02.2010, does not show any independent application of mind by the first respondent while passing the order on an appeal filed by the petitioner herein.

4. Learned Special Government Pleader appearing for the respondents, while strenuously contending that the first respondent is fully justified in modifying the punishment of removal from service to that of compulsory retirement, also further contended that the Superintendent concerned, by name Thiru.L.Narayanan, was also though removed from service initially, the said punishment was modified to that of compulsory retirement by this Court in a writ petition filed by him and as such, the order passed by the Appellate Authority dated 26.02.2010 modifying the punishment cannot be interfered with.

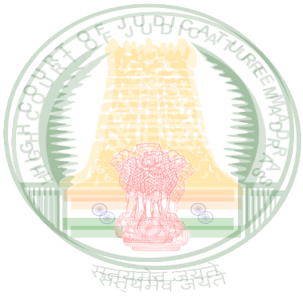


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5. However, this Court is unable to agree with the contentions raised by the learned Special Government Pleader for the reason that this Court does not find any application of mind by the first respondent while disposing of the appeal. The statutory appeal filed by the petitioner was disposed of in a mechanical manner blindly following the opinion expressed by the TNPSC. The first respondent/Appellate Authority is expected to apply its mind by considering the totality of circumstances and to pass an order by duly taking into consideration the contention raised by the Petitioner.

6. In the light of the above, this Court is of the considered view that this is a fit case to be sent back for reconsideration of the first respondent, to review the order passed in Government Order (Nilai) No.231 Home (Police-17) Department dated 26.02.2010 and to reexamine whether the punishment of compulsory retirement imposed on the petitioner is on higher side or not, taking into consideration the charge levelled against the petitioner and the past service rendered by the petitioner for 20 years and also considering the awards received by the petitioner during his 20 years of service.



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7. Accordingly, this writ petition is disposed of directing the first respondent to review the orders issued in Government Order (Nilai) No.231 Home (Police-17) Department dated 26.02.2010 only to the extent of examining as to whether the punishment of the compulsory retirement from service imposed on the petitioner is on higher side or not and pass appropriate orders as expeditiously as possible, at any rate within a period of eight weeks from the date of receipt of a copy of this order.

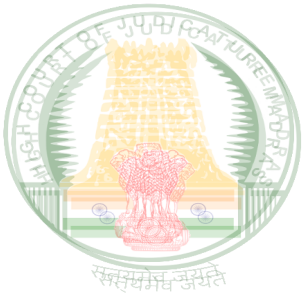
8. With the above observations and direction, this writ petition stands disposed of. No costs.

12.06.2025

cda

Index : Yes / No

Speaking / Non-Speaking Order



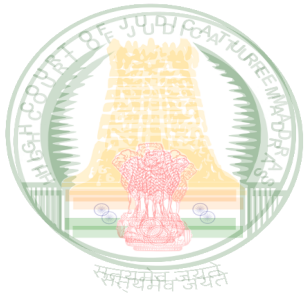
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To

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2. Director of Fire Services,
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MUMMINENI SUDHEER KUMAR, J.

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