



WP.No.14112 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 29.07.2025

PRONOUNCED ON : 12.09.2025

CORAM

THE HONOURABLE Mr.JUSTICE **C.KUMARAPPAN**

WP.No.14112 of 2024

and

WMP.Nos.15302 & 15301 of 2024

V.Priyamalini
W/o.Bala Thandayuthapani
Inspector of Police,
Erode Railway Police Station
Erode District.

... Petitioner

Vs.

1. The Secretary to Government
Home (Police IV) Department,
Fort St. George, Chennai-9.
2. The Commissioner for Tribunal for
Disciplinary Proceedings,
No.5/1B, Vinayanaga Nagar
Madurai 625 023.
3. The Director General of Police
Tamil Nadu, Chennai-4.
4. The Superintendent of Police
Railways, Erode-8.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, praying to issue a writ of Certiorarified Mandamus, to call for the records of the 3rd respondent in connection with the Proceedings in RC No. 6319089 / Con.V (1) / 2024 dt.26.4.24, enclosing the report of the 2nd respondent in his letter Rc No. 120/ 2020/A1 (TDP.No.6/ 2020) dt.



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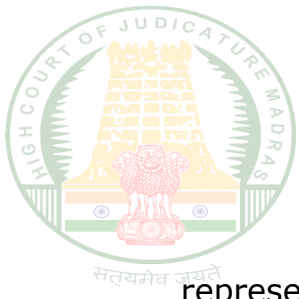
10.10.23 with a covering letter of memorandum of the 4th respondent in C.No.F1/ 4734/ 2024 dt 3.5.2024 and quash the same and direct the respondents to consider the claim of the Petitioner for Promotion to the Post of Deputy Superintendent of Police, Category - I in the ensuing Panel and promote her as such and grant her all consequential service and monetary benefits.

For Petitioner : Mr.K.Venkataramani
Senior Counsel
for Mr.M.Muthappan

For Respondents : Mr.R.Sasi Kumar
Government Advocate

ORDER

The brief facts which give rise to the instant writ petition is that, when the petitioner was serving as the Inspector of Police in All Women Police Station, Devakottai, one Balasubramaniam gave a corruption complaint against the petitioner before the Vigilance and Anti Corruption Wing. Based on such complaint, the 2nd respondent has initiated an enquiry before the Commissioner of Tribunal for Disciplinary Proceedings in TDP No.6 of 2020. The Tribunal, after concluding the enquiry has submitted the positive report on 10.10.2023. In pursuance of the enquiry report, the petitioner was asked to give further



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representation vide communication dated 07.05.2024. Hence, the petitioner preferred the present writ petition challenging the enquiry report and consequential notice calling upon the petitioner to give further representation.

2. Heard Mr.K.Venkataramani, learned Senior Counsel for Mr.M.Muthappan, learned counsel for the petitioner and Mr.R.Sasi Kumar, learned Government Advocate appearing for the respondents.

3. The learned Senior Counsel appearing on behalf of the petitioner would vehemently contend that the petitioner joined the service during 1999, and during 2012, she was promoted as Inspector of Police. While so, during 2017, when she was serving as Inspector of Police, All Women Police Station, Devakottai, she conducted an enquiry based upon the complaint given by one Selvaraj, husband of Rajathi, regarding the elopement of his wife Rajathi with one Balasubramaniam. Therefore, based upon the above complaint, she enquired Balasubramaniam in accordance with law by issuing summons. Aggrieved with the same, Mr.Balasubramaniam preferred an anticipatory bail application but, the said application later was closed. The learned Senior Counsel would further submit that enraged by the

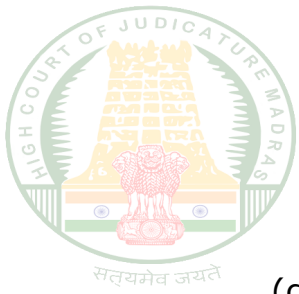


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legitimate enquiry conducted by the petitioner, the said Balasubramaniam with ulterior motive has given a complaint before the Vigilance and Anti Corruption officials on 03.12.2017, and also filed CrI.OP.(MD) No.17015/2017 to register a criminal case against the petitioner. It is the further submission of the learned Senior Counsel that the said Balasubramaniam had also initiated proceedings before the Human Rights Commission in HRC No.10005/2018. Though in those proceedings, there is a finding that there are no *prima facie* case against the petitioner, the respondent-Department has initiated enquiry proceedings before the Commissioner of Disciplinary Proceedings in TDP.No.6/2020, which according to the petitioner is liable to be quashed on the following grounds:-

- (a). The very initiation of the complaint in spite of the observation by the Higher Judicial Forum viz., the High Court as well as the State Human Rights Commission that there are no *prima facie* case against the petitioner, is *ipso facto* illegal.
- (b). In spite of issuance of summons to the *de facto* complainant viz., Balasubramaniam, he did not appear before the Court for cross examination. Therefore, the entire evidence should be eschewed.
- (c). Except unreliable PW7, who is the friend of the *de facto* complainant, the other witnesses turned hostile and even PW7 is only hearsay witnesses. Therefore, the finding of the Enquiry Authority is without any evidence.



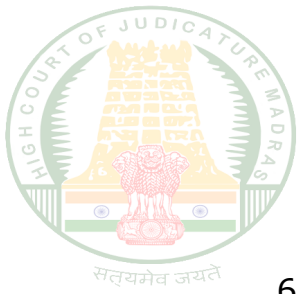
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(d) It is also the submission of the learned Senior Counsel that the respondent-Authority did not consider the written arguments of the petitioner and has simply reproduced the evidence and ultimately arrived at a conclusion without having any vestige for application of mind. Hence, prayed to quash the enquiry report.

4. Per contra, the learned Government Advocate would contend that the argument put forth by the petitioner is in the nature of re-appreciation of evidence, which cannot be done in a judicial review. The learned Government Advocate would further contend that there are no legal defence raised by the petitioner and the defences which are raised by the petitioner are in factual aspects, which require re-appreciation of evidence, and the same cannot be done in the judicial review. The learned Government Advocate would further submit that it is too premature to challenge the enquiry report. If at all the petitioner has got any grievance, that has to be addressed only after submitting her further representation to the respondents, and after the final order of the respondent, by preferring an appeal. Hence, prayed to dismiss the writ petition.

5. I have given my anxious consideration to either side submissions.



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6. There are no serious dispute in respect of the procedure adopted by the respondent in conducting enquiry. From the records, it is amply clear that the enquiry in TDP No.6/2020 was commenced against the petitioner on 03.06.2022. The Disciplinary Authority has examined 11 witnesses and marked 13 documents. After recording the witnesses statement, concluded the enquiry on 31.08.2023. After conclusion of the enquiry, the employer has submitted his written arguments on 13.09.2023 and the present petitioner viz., the accused has filed her written arguments on 22.09.2023. Thus after hearing either side, the Disciplinary Authority passed the final order on 10.10.2023. In pursuance thereof, the same was communicated to the petitioner on 07.05.2024 calling upon her to give further explanation. Therefore, apparently there could not have been any grievance in respect of the procedure followed by the Disciplinary Authority in conducting the enquiry.

7. It is pertinent to mention here that, immediately after initiation of TDP enquiry No.6/2020, the petitioner filed a writ petition in WP(MD) No.27513/2022, wherein the petitioner has raised an objection to proceed with the Disciplinary Enquiry on the ground that there is a finding in her favour by the Judicial Forum viz., the High Court in

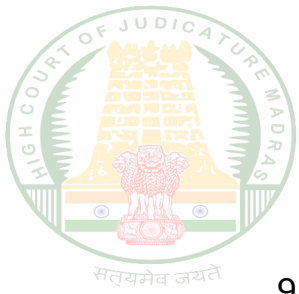


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CrI.OP.No.17015/2017 and the Human Rights Commission report in HRC.No.10005/2018 dated 15.12.2020, to the effect that there are no *prima facie* case against her. But, in spite of such finding, according to the petitioner, the initiation of disciplinary proceedings is contrary to law. However, the learned Single Judge of this Court vide order dated 01.12.2022 directed the respondents to proceed with the enquiry and has ultimately given liberty to the petitioner to raise all her defence which are put forth before this Court in the writ proceeding.

8.In view of the order passed in WP.No.27513 of 2022, the petitioner now cannot re-agitate the same point before the Court by way of yet another writ after conducting the enquiry and before passing final order. Therefore, unless the Disciplinary Authority gives an ultimate finding about the defence of the petitioner raised in pursuance of the order in W.P.No.27513 of 2022, the petitioner cannot re-agitate the same after the service of enquiry report calling for further representation. Further, we must also keep in mind that this Court in earlier writ petition has given a finding that there is no infirmity in proceeding with the enquiry. It is in this background, the question of challenging the enquiry report based upon the very same ground, is erroneous and illegal.



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9. Apart from the above defence, the other legal defence put forth by the petitioner is that her written argument has not been considered. While looking at the enquiry report, the Commissioner has received the complaint on 12.06.2020, and has framed charge on 05.10.2020 and served the copy of the charge memorandum to the petitioner on 21.12.2020. Based upon the charge memorandum, the enquiry was commenced on 03.06.2022 and completed the enquiry on 31.08.2023. In the meanwhile, the prosecution has submitted the written arguments on 13.09.2023, and the delinquent submitted her written arguments on 22.09.2023. After that, the enquiry report was submitted on 10.10.2023. Though it was contended that the enquiry report is nothing but reproduction of the charge memorandum, deposition of the evidence and the extraction of the written arguments, while looking at the enquiry report, the authority after analysing all the above materials has given the ultimate positive finding.

10.As rightly contended by the learned Senior Counsel, though the Commissioner of Tribunal for disciplinary proceedings has extracted the charges, evidences and arguments from page 1 to 47, but from page 48 onwards, the Tribunal has discussed about the arguments and the evidences. Therefore, this Court is of the firm view that the



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arguments of the petitioner that the Commissioner did not consider her written arguments is factually incorrect. Therefore, the petitioner's argument that the Commission did not consider the petitioner's written arguments also fails.

11. The other defence put forth by the petitioner is that there are no positive evidence against the petitioner to arrive at the conclusion. In this regard, the learned Senior Counsel relied upon the judgment of the Hon'ble Supreme Court in ***Andaman Timber Industries Vs. Commissioner of Central Excise*** reported in ***(2016) 15 SCC 785*** and the order of this Court in ***CRP (PD).No.2182 of 2019 [G.Balaji and another Vs. Saravanasamy]*** and another judgment of this Court in ***WP(MD).Nos.11379 to 11382 & 13608 to 13614 of 2021 [K.Sugumar Vs. The Commissioner of Customs and 2 others]*** and would submit that the evidence of the complainant of Balasubramaniam has no evidentiary value, as he did not subject himself for cross examination, therefore, his evidence has to be eschewed. If the complainant's evidence is eschewed, the other available evidences against the petitioner is the evidence of one Mr.Karthikeyan(PW7), even his evidence is also hearsay in nature. Therefore, according to the petitioner apparently there are no evidence against the petitioner.



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Hence, contended that the findings rendered by the Commissioner of Tribunal for Disciplinary proceedings is perverse and without any evidence. While considering the precedents relied by the petitioner, those cases are not arising in the disciplinary proceedings, but has arisen in a civil suit, and in a proceedings initiated by the Commissioner of Central Excise Department against the smuggling of gold as well as against the imposition of Tax. As we all know, Standard of Proof in the above proceedings and disciplinary proceedings are not similar. Further there is no requirement for strict application of Evidence Act in the departmental proceedings. Therefore, those rulings are not applicable to the present facts of the case.

12. It is well settled principle of law that the Rule of evidence is not strictly applicable to the domestic enquiry. The main ground urged by the petitioner is that, the *de facto* complainant though was examined in chief, he did not turn up for cross examination and the evidentiary value of the other witness viz., PW7 is hearsay in nature and therefore, is inadmissible. As we know, what is essential in a disciplinary proceedings is a preponderance of probability and not proof beyond a reasonable doubt. No doubt, PW1 who is the *de facto* complainant did not turn up for cross examination. However, this Court cannot lose



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sight of the complaint given by the *de facto* complainant against the present petitioner as she intimidated him. Even in the typed set of papers submitted by the petitioner, she has annexed a complaint given by the *de facto* complainant to the DGP on 30.03.2018 about the alleged intimidation made by the petitioner. But, in spite of the above scenario, he deposed before the Disciplinary Authority on 03.06.2022. It is not in serious dispute that the *de facto* complainant was issued with various summons to appear for cross examination. Since because he has not turned up for cross examination, the finding rendered by the Disciplinary Authority cannot be held as without any evidence. Apart from that, though PW1 did not turn up for cross examination, there is an evidence given by PW7, which has reference about the delinquency of the petitioner. As we already stated, since because the evidence of PW7 is hearsay, that by itself is not a ground to reject his evidence.

13. At this juncture, it is appropriate to refer the judgment of the Hon'ble Supreme Court in ***Airports Authority of India v. Pradip Kumar Banerjee***, reported in ***(2025) 4 SCC 111***, where the Hon'ble Supreme Court has held that in a corruption case, even when the *de facto* complainant was not examined, the same cannot be a ground to reject the complaint against the delinquent. This Court would also like



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to refer to the judgment of the Hon'ble Supreme Court in ***State of Rajasthan v. Heem Singh***, reported in **(2021) 12 SCC 569**, wherein the Hon'ble Supreme Court has culled out the powers of the Court while exercising the judicial review. The Hon'ble Supreme Court has held that, while determining whether the finding in a Disciplinary proceedings is based on some evidence, the High Court only must undertake threshold level of scrutiny. While looking at the evidence available before this Court, and applying the principles of the Hon'ble Supreme Court namely the application of threshold level of scrutiny, the evidence of the *de facto* complainant and PW7 is there. Therefore, this Court cannot term the enquiry report is without any evidence. It is for the Disciplinary Authority to decide to accept the evidence of PW1 and PW7. If this Court gives any finding upon the evidence of the *de facto* complainant and PW7, it is nothing but transgressing the limitation of the power of the Hight Court in exercising the judicial review.

14. It is also relevant to mention here that while exercising the power of judicial review, this Court must exercise a Rule of restrain, as the determination about the misconduct is primarily within the domain of the disciplinary Authority. The Hon'ble Supreme Court has further

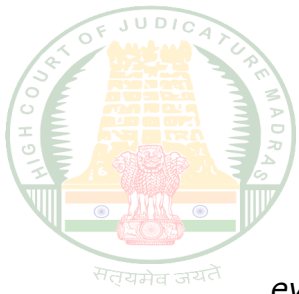


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held that, the High Court while exercising the power of judicial review does not assume mantle of the disciplinary authority nor the judge wear the hat of an employer. It has further held that, the High Court must have a deference to a finding of fact by the disciplinary authority, when there are some evidence available for arriving at such finding. In this regard, it is appropriate to extract the relevant paragraph 37 in **Heem Singh's** case [cited supra]:-

"37. In exercising judicial review in disciplinary matters, there are two ends of the spectrum. The first embodies a rule of restraint. The second defines when interference is permissible. The rule of restraint constricts the ambit of judicial review. This is for a valid reason. The determination of whether a misconduct has been committed lies primarily within the domain of the disciplinary authority. The Judge does not assume the mantle of the disciplinary authority. Nor does the Judge wear the hat of an employer. Deference to a finding of fact by the disciplinary authority is a recognition of the idea that it is the employer who is responsible for the efficient conduct of their service. Disciplinary enquiries have to abide by the rules of natural justice. But they are not governed by strict rules of evidence which apply to judicial proceedings. The standard of proof is hence not the strict standard which governs a criminal trial, of proof beyond reasonable doubt, but a civil standard governed by a preponderance of probabilities. Within the rule of preponderance, there are varying approaches based on context and subject. The first end of the spectrum is founded on deference and autonomy — deference to the position of the disciplinary authority as a fact-finding authority and autonomy of the employer in maintaining discipline and efficiency of the service. At the other end of the spectrum is the principle that the court has the jurisdiction to interfere when the findings in the enquiry are based on no evidence or when they suffer from perversity. A failure to consider vital evidence is an incident of what the law regards as a perverse determination of fact. Proportionality is an entrenched feature of our jurisprudence. Service jurisprudence has recognised it for long years in allowing for the authority of the court to interfere when the finding or the penalty are disproportionate to the weight of the



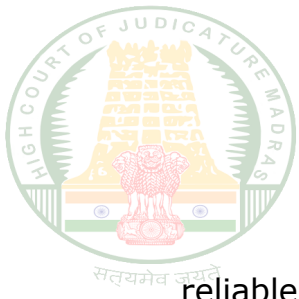
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evidence or misconduct. Judicial craft lies in maintaining a steady sail between the banks of these two shores which have been termed as the two ends of the spectrum. Judges do not rest with a mere recitation of the hands-off mantra when they exercise judicial review. To determine whether the finding in a disciplinary enquiry is based on some evidence an initial or threshold level of scrutiny is undertaken. That is to satisfy the conscience of the court that there is some evidence to support the charge of misconduct and to guard against perversity. But this does not allow the court to reappreciate evidentiary findings in a disciplinary enquiry or to substitute a view which appears to the Judge to be more appropriate. To do so would offend the first principle which has been outlined above. The ultimate guide is the exercise of robust common sense without which the Judges' craft is in vain."

15. Therefore, this Court is of the firm view that the petitioner has raised the legal defence viz., the finding rendered by the enquiry authority is contrary to the findings of the higher judicial Forum viz., the High Court and State Human Rights Commission, has already been dealt by the learned Single Judge in WP (MD).No.27513/2022. Therefore, the very same defence cannot be taken after the completion of the enquiry, as the learned Single Judge left such defence to be adjudicated by the disciplinary authority.

16. Coming to the absence of any evidence against the petitioner, this Court cannot re-appreciate the entire evidence and must only find whether is there some evidence available against the petitioner. While doing so, this Court finds the existence of some evidence. Whether it is



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reliable or not reliable, acceptable or not acceptable is left with the domain of the disciplinary authority. Therefore, this Court absolutely does not find any merits in this writ petition.

17. In view of the above discussions, this Court directs the respondents to pass final order in accordance with law within a period of four(4) weeks from the date of receipt of a copy of this order. It is made clear that the observation made in the writ petition is only to adjudicate upon the defence of the petitioner, and the respondents are directed to pass final order uninfluenced by any of the observation made in the present writ petition.

18. In the result, this Writ Petition is dismissed as directed above. There shall be no order as to costs. Consequently, connected WMPs are also closed.

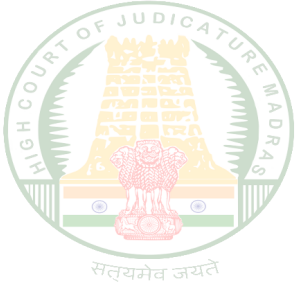
12.09.2025

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Index : Yes/No

Speaking order Order

Neutral Citation : Yes/No



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C.KUMARAPPAN, J.

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To

1. The Secretary to Government Home (Police IV) Department, Fort St. George, Chennai-9.
2. The Commissioner for Tribunal for Disciplinary Proceedings, No.5/1B, Vinayanaga Nagar Madurai 625 023.
3. The Director General of Police Tamil Nadu, Chennai-4.
4. The Superintendent of Police Railways, Erode-8.

Pre-Delivery Order in

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12.09.2025