



W.P.Nos.15879 and 15873 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 08.07.2025

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THE HONOURABLE Mr.JUSTICE C.KUMARAPPAN

W.P.Nos.15879 and 15873 of 2025

and

W.M.P.Nos.17968, 17969, 17970, 17971, 17956 and 17962 of 2025

N.Devika

... Petitioner in both W.Ps

Vs.

1. The Additional Chief Secretary to Government,
Department of (Police-IX) Home,
Secretariat,
Chennai – 600 009.
2. The Director General of Police,
Dr.Radhakrishnan Salai,
Mylapore, Chennai – 600 004.
3. The Member Secretary,
Tamil Nadu Uniformed Services Recruitment Board,
Old Commissioner of Police Office Campus,
Pantheon Road, Egmore,
Chennai – 600 008.
4. The Commandant, Tamil Nadu Special Police-II Battalion,
Avadi, Chennai.



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5. The Superintendent of Police,
Villupuram District.

... Respondents in both W.Ps

Prayer in W.P.No.15879 of 2025:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records of the impugned order passed by the first respondent in Letter No.17856/Pol-IX/2023-1 dated 21.11.2024, upholding the impugned order passed by the second respondent in R.C.No.77841/AP 3(1)/2015 dated 07.12.2016, issued modifying the impugned order passed by the fourth respondent in his proceedings No.P.R.No.30/10 dated 09.03.2011 and quashes the same as illegal.

Prayer in W.P.No.15873 of 2025:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the third respondent to permit the petitioner to apply online and appear in all further stages in the recruitment process in pursuance to the recruit Notification No.01/2025-Direct Recruitment for the posts of Sub Inspectors of Police-2025 dated 04.04.2025, under the departmental quota without considering the order of punishments issued by the first respondent in Letter No.17856/Pol-IX/2023-1 dated 27.11.2024, upholding the order passed by the second respondent in R.C.No.77841/AP 3(1)/2015 dated 07.12.2016, issued modifying the order passed by the fourth respondent in his proceedings No.P.R.No.30/10 dated 09.03.2011, all for the unauthorized absence of the petitioner as a case of desertion, whereas the petitioner was on bonafide medical leave duly certified by the Assistant Surgeon in the Tamil Nadu Special Police Hospital, Avadi, on account of her new born baby being sick and suffering from loose motion and jaundice and herself being sick



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attending to her child day in day out, also considering the fact that those days only 90 days maternity leave was permitted under the Tamil Nadu Fundamental Rules, Rule 101(a).

For Petitioner : Mr.M.Purushothaman
in both W.Ps

For Respondents : Mr.R.Sasikumar,
in both W.Ps Government Advocate
(for R1, R2, R4 & R5)

Mrs. D.Sowmi Dattan,
Standing Counsel (for R3)

COMMON ORDER

Both the Writ Petitions are interconnected; hence, they are taken up for common disposal.

2. The writ petition in W.P. No. 15879 of 2025 has been filed with a prayer for issuing a Certiorari to quash the order of the disciplinary authority, order in mercy petition, and the order of the first respondent.

3. The writ petition in W.P. No. 15873 of 2025 has been filed with a



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consequential prayer to permit her to apply for the direct recruitment for the posts of Sub-Inspector of Police-2025 notified under Recruitment Notification No. 01/2025, dated 04.04.2025.

4. The short facts necessary for the disposal of these Writ Petitions are that, the petitioner is a Head Constable. When she was working in the Commandant, Tamil Nadu Special Police-II Battalion, Avadi, the petitioner gave birth to a female baby and availed maternity leave for 90 days. After completing the maternity leave, she also availed casual leave, medical leave, and other leave upto 18.08.2010. Thereafter, according to the Department, she deserted for a period of fifteen days. Hence, she was issued with show cause notice as to why she should not be declared a deserter, vide notice dated 14.09.2010. But she did not submit any reply. Consequently, she was issued with a charge memorandum dated 07.01.2011, and thereafter a domestic enquiry was conducted. In the domestic enquiry proceedings, the petitioner neither cross-examined the departmental witness nor led in any defence witness.

4.1. Ultimately, on the basis of the petitioner's explanation, the



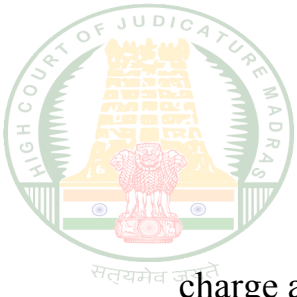
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punishment was imposed on 09.03.2011, reducing her time scale of pay by one stage for one year without cumulative effect. But, she did not think fit to prefer an appeal. On the other hand, the petitioner filed a mercy petition before the second respondent after five years, wherein the second respondent modified the punishment to postponement of increment for a period of one year, which shall not operate to postpone her future increments from the date of the original order, vide order dated 07.12.2016. Thereafter, she filed an application before the first respondent on 20.02.2017, wherein the first respondent confirmed the order of the second respondent and rejected the petitioner's application, vide order dated 27.11.2024. Aggrieved against the above orders, and after learning that the punishment imposed against her is a bar to apply for the direct recruitment post of Sub-Inspector of Police, she came up with these writ petitions.

5. Heard the learned counsel for both sides and perused the materials available on record.

6. The learned counsel for the petitioner would submit that, the only



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charge against her is that she deserted for 60 days. It is the further submission of the learned counsel for the petitioner that, at the relevant point of time, though she had completed 90 days of maternity leave, she was not in a position to rejoin her duty due to the ill-health of her newborn baby. In substance, it is the submission of the learned counsel for the petitioner that, had there been maternity leave beyond the period of 90 days as provided by the State currently, she would not have been issued with the charge memorandum. It is the further submission of the learned counsel for the petitioner that the punishment is disproportionate to the gravity of the charge, as the charge of desertion is the result of true care shown on her newborn baby. He would further submit that, since she suffered a punishment other than reprimand and censure, she became barred to apply for the post of direct recruitment Sub Inspector of Police. He would also submit that the petitioner had been conferred with the Chief Minister's medal and had distinguished service. Hence, he prayed to interfere with the punishment.

7. Per contra, the learned Special Government Pleader appearing for the first, second, fourth, and fifth respondents would submit that, though the



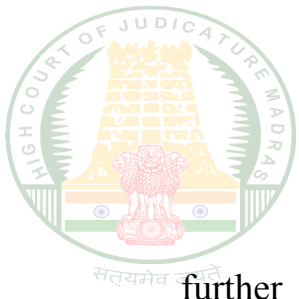
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disciplinary matter is amenable to judicial review, this Court has only a limited role to find out whether the order of the disciplinary authority is perverse, without any evidence, and whether such punishment is disproportionate to the gravity of the charge. He would also submit that the very fact that the petitioner did not prefer any appeal and filed these writ petitions, that too after a period of more than four months, more specifically, after the recruitment notice dated 04.04.2025 for direct recruitment for Sub-Inspector of Police, would demonstrates that the petitioner's grievance is not against the punishment, but her realisation that she became barred to apply for the post of Sub Inspector of Police. In view of this fact, it is the submission of the learned Special Government Pleader that there are no merits in these Writ Petitions.

8. I have given my anxious consideration to the submissions made on either side.

9. Admittedly, the petitioner did not led in evidence before the disciplinary authority nor cross-examined the Department witness. It is a

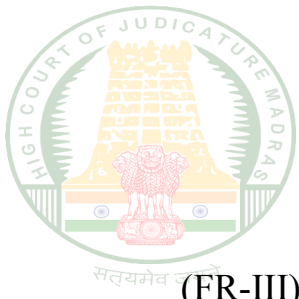


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further admitted fact that, she did not prefer any appeal against the disciplinary authority's order. However, after a lapse of five years, she filed the mercy petition before the second respondent, where her punishment was modified to postponement of increment for a period of one year, without cumulative effect, vide order dated 07.12.2016. After that, she preferred a petition before the first respondent during 2017, which was eventually dismissed on 27.11.2024, confirming the order of the second respondent. The date of charge memorandum, finding of the Enquiry Officer, and non-filing of the appeal are not in serious dispute.

10. The main ground urged by the learned counsel for the petitioner is that, though the petitioner was issued with a charge memorandum for desertion, the same was not deliberate; it was only on account of certain complications suffered by her newborn baby at the relevant point of time. To justify his contention, the learned counsel for the petitioner relied upon various Government Orders, namely G.O. Ms. No. 51, Personnel and Administrative Reforms (FR-III) Department, dated 16.05.2011, G.O. Ms. No. 105, Personnel and Administrative Reforms (FR-III) Department, dated 07.12.2016, and G.O. Ms. No. 84, Personnel and Administrative Reforms



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(FR-III) Department, dated 23.08.2021, issued in respect of maternity leave sanctioned by the Government at different point of time, granting maternity leave for 180 days, 270 days, and 365 days, respectively.

11. From the above references, the point which the learned counsel for the petitioner's derive is that, had there been 180 days of maternity leave granted to her, as given from G.O. Ms. No. 105, Personnel and Administrative Reforms (FR-III) Department, dated 07.12.2016, she would not have met with the charge memorandum. Though the argument appears to be attractive, this Court is not impressed by the submission, since the extension of maternity leave to 180 days from 90 days was not in force at the relevant point of time. In fact, though it was contended that the petitioner's newborn baby had some complications due to jaundice, this was not her explanation before the disciplinary authority; instead, she stated before the disciplinary authority that she had certain ailments. Even when she appealed to the first respondent during 2017, she did not take such a defence.

12. It is a well-settled principle of law that the power of judicial review is very much limited and can be exercised with great care and caution.



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Judicial review is not like an appellate remedy to re-appreciate the entire evidence; In this regard, this Court would like to refer the following judgements:-

(i) *B.C.Chaturvedi Vs. Union of India* reported in (1995) 6 SCC 749

(ii) *Deputy General Manager (Appellate Authority) Vs. Ajai Kumar Srivastava* reported in (2021) 2 SCC 61.

(iii) *The Indian Oil Corporation & Ors., Vs. Ajit Kumar Singh & Anr.*, reported in 2023 LiveLaw (SC) 478.

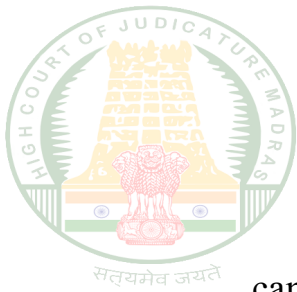
Through the above judgements, the following principles are emerging:-

(i) Power of Judicial review is not like an appeal. But such power is meant to ensure that the individual receives fair treatment and the compliance of natural justice.

(ii) The power of judicial review is not like a appellate remedy to substitute its own finding, unless the findings of the Original Authority and Appellate Authority is perverse and without evidence.

(iii) The High Court had no jurisdiction to review the penalty, unless the same is shockingly disproportionate.

(iv) The mere possibility to arrive at yet another finding,



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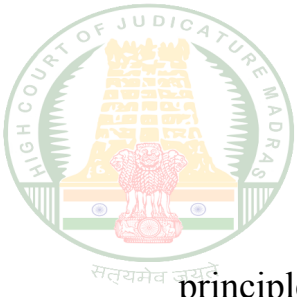
cannot be a reason to substitute the finding of the disciplinary Authority.

(v) The judicial review is meant only to ensure fairness in treatment and not to ensure fairness of conclusion.

(vi) While exercising the power of judicial review, so long as there is some evidence to support the conclusion arrived at by the original authority, the same has to be sustained.

13. In the case at hand, at the first instance, the petitioner did not lead in any evidence to justify her absence before this Court to infer that the same was due to certain circumstances beyond her control. The fact that she did not prefer any statutory appeal for a period of five year would also indicate that the petitioner had no grievance against the punishment. Apart from that, the finding rendered by the disciplinary authority is based upon the admission of the petitioner. Hence, this Court absolutely does not find any infirmity in the impugned orders.

14. Coming to the proportionality of the punishment, it is a well-settled



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principle of law that it is for the disciplinary authority to decide the quantum, after taking into consideration of the gravity of charge. However, the High Court can interfere with the punishment under judicial review only if the punishment is unconscionable and disproportionate to the gravity of the charge. In the case at hand, though the petitioner was initially imposed with a punishment of reduction in time scale of pay by one stage for one year without cumulative effect, subsequently it was modified in 2016 by the second respondent to a lenient punishment of postponement of increment for a period of one year, without cumulative effect. However, despite the leniency shown by the second respondent by reducing the punishment, she is deprived of her opportunity to participate in the direct recruitment post of Sub-Inspector of Police through service quota. As this Court has already stated, interference with the punishment would only come when there is a disproportionate punishment shocking to the conscience of the Court.

15. Here, the factum of desertion is an admitted fact. As a matter of fact, in uniformed service, desertion is one of the serious charges. However,

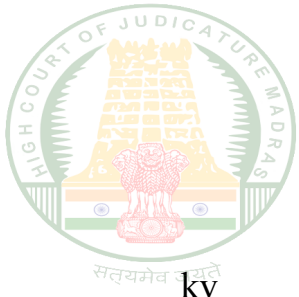


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by taking into consideration of the petitioner's defence, qua her ailments and probably her baby's condition, the disciplinary authority would have dealt the issue leniently, which was rightly appreciated by the second respondent. Hence, this Court does not find any ground to interfere with the impugned order by exercising the power of judicial review, though this Court has sympathy with the petitioner. It is relevant to note that the extension of maternity leave up to one year by the Government at a belated stage, cannot be a defence to consider the petitioner's case sympathetically upon the above ground, as it would set a wrong precedent. Accordingly, this Court does not find any merit in the Writ Petition in W.P. No. 15879 of 2025, and the same is liable to be dismissed. As a concomitant, the Writ Petition in W.P. No. 15873 of 2025 is also liable to be dismissed.

16. In the result, both the Writ Petition are dismissed. Consequently, the connected Miscellaneous Petitions are closed. No costs.

08.07.2025



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Index : Yes/No

Speaking order /Non Speaking Order

Neutral Citation : Yes/No

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Department of (Police-IX) Home,
Secretariat,
Chennai – 600 009.
2. The Director General of Police,
Dr.Radhakrishnan Salai,
Mylapore, Chennai – 600 004.
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