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W.P. No. 30997 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.02.2025

CORAM

THE HON'BLE Ms. JUSTICE R.N.MANJULA

W.P. No. 30997 of 2019

A.Sridhar

... Petitioner

-VS-

1. The Commissioner of Police
Greater Chennai Police
No.132, EVK Sampath Road
Vepery, Chennai-600007.

2. The Deputy Commissioner of Police
Armed Reserve Police-I
Pudupet, Chennai-600002.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the proceedings of the second respondent in P.R.No.223/PR-II(2)/2014 CPO No.2027/2015 dated 16.07.2015 and the proceedings of the TA.PA.No.223/TA.P.2(2)/2014 dated 08.07.2019 and quash both the proceedings as arbitrary and illegal and consequently direct the Respondents to reinstate the petitioner in service Constable in the 14th Platoon, 'C' Coy AR-I.

For Petitioner : Ms.M.Meenarukumani
For Mr.AR.Karthik Lakshmanan

For Respondents : Mr.A.M.Ayyadurai, GA



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ORDER

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The petition has been filed challenging the proceedings of the second respondent dated 15.07.2015 in P.R.No.223/PR-II(2)/2014 CPO No.2027/2015 and the proceedings of the first respondent dated 08.07.2019 in TA.PA.No.223/TA.P.2(2)/2014 by stating that they are arbitrary and illegal and seeking a consequential direction to the respondents to reinstate the petitioner in service as Constable in the 14th Platoon, "C" Coy AR-I.

2. Heard Ms.M.Meenarukumani, learned counsel for the petitioner and Mr.A.M.Ayyadurai, learned Government Advocate for the respondents and perused the materials placed on record, apart from the pleadings of the parties.

3. The petitioner has been appointed as a Constable in 14th Platoon, Armed Reserve, Greater Chennai Police. In the year 2014, he was made as an accused in a criminal case registered in Crime No. 46 of 2014 of B5, Harbour Police Station under Sections 302 and 201 IPC. Thereafter, the petitioner was suspended from service. Disciplinary proceedings have been initiated against the petitioner consequent to the issuance of the charges on the basis of the pending criminal case. At the conclusion of the disciplinary proceedings, he was imposed with punishment of removal from service on 16.07.2015 through the orders of the



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second respondent, against which *suo motu* review was taken by the first respondent and the said punishment has also been confirmed by the first respondent on 08.07.2019.

4. The learned counsel for the petitioner submitted that subsequent to the above order of punishment of removal from service, the trial in the criminal case got concluded and the judgment has been rendered by the Sessions Court on 29.09.2018 by acquitting the accused on the finding that the guilt against the accused is not proved. Hence, it is now claimed by the petitioner that the earlier punishment of removal from service imposed on him should be set aside basing upon the finding given by the criminal Court that the guilt against him is not proved.

5. It is further submitted that the respondents ought to have stayed the departmental proceedings until the conclusion of the criminal case because both the departmental proceedings and the criminal proceedings are based on identical set of facts and charges. The petitioner has been punished only on mere suspicion without giving due consideration to his explanation. Despite the petitioner has sent a representation dated 02.05.2018 to the first respondent, he did not consider the same stating that the petitioner has not preferred any appeal within the prescribed time limit.



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6. The learned counsel for the respondents submitted that the standard of proof required for the criminal case and the departmental proceedings are different and in the departmental proceedings, the guilt of the petitioner/accused is proved on the preponderance of probabilities, but in the criminal case, he has been acquitted for want of evidence beyond reasonable doubt. The disciplinary authority has agreed with the findings of the enquiry officer who had conducted the enquiry by following the due procedure. After receiving the order of the punishment of removal from service, the petitioner did not prefer any appeal within the prescribed time limit of 30 days. Hence, the first respondent *suo motu* taken up the review and confirmed the punishment of removal from service.

7. Despite the petitioner has stated that it is wrong on the part of the department to continue the departmental proceedings before the criminal case is over, it appears that he did not file any proceedings before the appropriate forum to get any order in this regard.

8. The petitioner has been given with the charge only based upon his involvement in the criminal case, which was the subject matter of the trial before the Criminal Court. As the petitioner was kept under custody in connection with



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that case, he has been suspended because disciplinary proceedings had been initiated. All those witnesses, who were examined on the side of the department, were examined in the criminal case as well. There is no eye-witness for the crime and even the Criminal Court appreciated the circumstantial evidence and ultimately held that the criminal charges were not proved.

9. For the reasons best known to the petitioner, he did not even prefer any appeal within the prescribed time limit against the punishment of removal from service imposed on him by the second respondent. After waiting for the appeal time to expire, the first respondent has *suo motu* taken up for review and appreciated the merits of the matter and confirmed the order of punishment of removal from service. But now the petitioner is advised by the first respondent to give a petition before the Director General of Police within a period of two weeks for considering the matter afresh. Even before the criminal case was over, the department had proceeded to conduct the disciplinary proceedings, but based upon the identical facts and evidences produced before the Criminal Court. Since the petitioner has been found guilty of the charges framed against him in the charge memo on suspicion, I feel the order confirming the punishment of removal from service passed by the first respondent is liable to be set aside.

10. In view of the extraneous circumstances involved in this matter, I feel that



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the petitioner should be permitted to file an appeal along with a petition to condone the delay involved in filing the appeal before the Appellate Authority and on receipt of the same, the Appellate Authority shall consider the appeal and pass appropriate orders within a period of eight (8) weeks thereafter.

11. With the above directions, this writ petition is disposed. No costs.

14.02.2025

Index: Yes/No

Index: Yes/No

Internet: Yes/No

Speaking /Non-speaking order

Maya

To

1. The Commissioner of Police
Greater Chennai Police
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2. The Deputy Commissioner of Police
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R.N.MANJULA, J.

Maya

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