



W.A No. 2958 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.10.2025

CORAM

**THE HON'BLE MR JUSTICE R.SURESH KUMAR**

**AND**

**THE HON'BLE MR JUSTICE HEMANT CHANDANGOUDAR**

**W.A No. 2958 of 2025**

**AND**

**CMP.No. 23832 of 2025**

1. The State of Tamil Nadu  
Rep by the Additional Chief Secretary  
Home (Police) Department,  
Fort St.George, Chennai-600009.

2.The Director General of Police,  
Mylapore, Chennai-600004.

3. The Deputy Inspector General of Police,  
Railways, Egmore, Chennai -600008.

4.The Superintendent of Police,  
Railways, Egmore, Chennai-600008.

..Appellants

Vs

S.Sellapan

..Respondent



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Writ Appeal is filed under Clause 15 of Letter Patent to set aside the order dated 16.08.2023 passed in W.P.No. 582 of 2020.

**For Appellants:** Mr. E.Vijay Anand, AGP

**For Respondent :** Ms. R.Megha

**JUDGMENT**

(Made by ***HEMANT CHANDANGOUDAR, J.***)

This intra-Court appeal is directed against the order dated 16.08.2023 passed by the learned Single Judge in W.P. No. 582 of 2020. By the said order, the learned Single Judge quashed the order of dismissal passed by the appellant herein against the respondent/writ petitioner and directed reinstatement of the writ petitioner into service from the date of the original order of punishment dated 17.11.2014, with continuity of service and all attendant and consequential service benefits. However, the learned Single Judge denied back wages for the period of non-employment.



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**2. *The brief facts leading to the present appeal are as follows:***

2.1 The respondent, while serving as a Police Constable attached to the Egmore Railway Police, was declared as a deserter by proceedings dated 02.09.2014, for having remained unauthorisedly absent from duty for 21 days. Subsequently, he was confirmed as a deserter on 17.11.2014. Thereafter, disciplinary proceedings were initiated against him under Rule 3(b) of the Tamil Nadu Police Subordinate Services (Discipline and Appeal) Rules. An enquiry was conducted, and the Enquiry Officer submitted his report holding that the charge against the respondent stood proved.

2.2 The Disciplinary Authority, after issuing a second show-cause notice and considering the explanation offered by the delinquent, passed an order dismissing the respondent from service, which order was later confirmed by the Appellate Authority. Aggrieved thereby, the respondent approached this Court in the above writ petition. The learned Single Judge, after hearing both sides and upon consideration of the materials available on record, passed the impugned order allowing the writ petition. Aggrieved by the same, the State has preferred the present intra-Court appeal.



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3. Mr. E. Vijay Anand, learned Additional Government Pleader appearing for the appellants, submitted that the respondent/writ petitioner is a habitual offender, having been imposed with penalties for similar misconduct on more than three occasions. It was contended that the charge of unauthorised absence stood proved, and therefore, the punishment of dismissal imposed by the Disciplinary Authority was justified. Consequently, the learned Single Judge was not justified in interfering with the punishment and the impugned order is liable to be set aside.

4. Ms. R. Megha, learned counsel appearing for the respondent/writ petitioner, submitted that the allegation against the respondent pertains to unauthorised absence for a short duration of 21 days. It was further submitted that the learned Single Judge rightly relied upon the Circular of the Director General of Police dated 06.12.2007, which specifically provides guidelines for dealing with cases of desertion, and therefore, the order passed by the learned Single Judge does not warrant interference.



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5. We have carefully considered the rival submissions of the learned counsel appearing for both sides and perused the materials placed on record.

6. It is not in dispute that the charge of unauthorised absence against the writ petitioner/respondent was duly proved. The respondent has also not established that his absence was on bona fide or justifiable grounds. The learned Single Judge referred to the Circular dated 06.12.2007 issued by the Director General of Police, which stipulates that when a Head Constable or Police Personnel is declared as a deserter, a notice must be issued directing the delinquent to appear before the Superintendent of Police within two months. The Superintendent of Police, upon such appearance, is required to assess whether the absence was on valid grounds and whether the period of absence was covered by a proper medical certificate. If not satisfied, the delinquent may not be permitted to rejoin duty; otherwise, reinstatement may be allowed.

7. The said Circular of the Director General of Police dated 06.12.2007 further clarifies that the extreme punishments of dismissal, removal from service, or compulsory retirement should not ordinarily be imposed for the charge of desertion, and the punishment must be proportionate to the gravity of



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the misconduct, as held by the Hon'ble Supreme Court in several decisions.

8. Having found that the charge against the writ petitioner stood proved, the learned Single Judge ought not to have set aside the order of punishment in its entirety. Instead, the learned Single Judge could have modified the punishment to one proportionate to the misconduct proved. It is relevant to note that the appellants have placed on record the service register of the writ petitioner showing that four earlier punishments had been imposed on him for similar instances of unauthorised absence.

9. In the instant case, while the misconduct stands proved, the punishment of dismissal from service appears to be disproportionate to the gravity of the charge. Therefore, this Court is of the considered opinion that the punishment warrants modification. However, instead of remitting the matter back to the Disciplinary Authority for reconsideration, this Court deems it appropriate, in the interest of justice and to avoid further delay, to itself impose a lesser punishment, keeping in view the respondent's past service record and the nature of the charge.



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10. Accordingly, the writ appeal is allowed in part and the order of the learned Single Judge dated 16.08.2023 in W.P. No. 582 of 2020 is modified as follows:

- (i) The order of dismissal passed by the appellants is modified into a punishment of stoppage of one increment with cumulative effect for a period of one year.
- (ii) The respondent/writ petitioner shall be reinstated into service with effect from the date of his dismissal, with continuity of service and other attendant service benefits, but without back wages for the period of non-employment.
- (iii) The appellants are directed to pass appropriate consequential orders giving effect to this judgment within a period of two (2) months from the date of receipt of a copy of this order.



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(iv) In the event the respondent/writ petitioner commits any similar misconduct in future, the appellants shall be at liberty to impose appropriate punishment, uninfluenced by the observations made in this order.

(v) Consequently, the connected miscellaneous petitions are closed.

There shall be no order as to costs.

**(R.S.K. J.)      (H.C. J.)**

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Index : Yes / No

Internet : Yes/No

Neutral Citation : Yes / No

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**and**

**HEMANT CHANDANGOUDAR, J.,**

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