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W.P No.25984 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.07.2025

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THE HONOURABLE MR. JUSTICE C. KUMARAPPAN

Writ Petition No.25984 of 2025

and

Writ Miscellaneous Petition No.29235 of 2025

R.Ayyasamy

... Petitioner

..Vs..

The Superintendent of Police,
Thiruvarur District,
Thiruvarur.

... Respondent

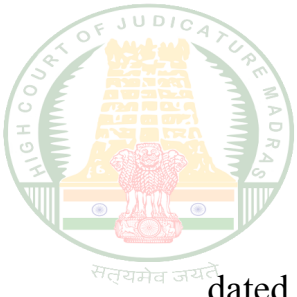
PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorarified Mandamus to call for the records pertaining to “Dismissal from service” bearing order P.R.No.K1/24/2020 dated 05/11/2022 passed by the respondent and to quash the same and consequently to direct the respondent to reinstate the petitioner in service with all consequential monetary.

For Petitioner : Mr.M.Madhuprakash

For Respondent : Mr.R.U.Dinesh Raj Kumar,
Additional Government Pleader

ORDER

The instant writ petition has been filed with a prayer for Mandamus to quash the impugned order in P.R.No.K1/24/2020 dated 05.11.2022 passed by the respondent.



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2. The learned counsel for the petitioner submits that, by Final Order dated 05.11.2022, the petitioner was removed from service on the allegation of misbehaving with the minor daughter of one Senthil Kumar. It is further submission that a criminal case was also registered in connection with the incident in Crime No.20/2019 and subsequently the case was disposed of by the Special Court for POCSO Cases, Nagapattinam by order dated 19th December 2024. It is further contended that, following the issuance of the Final Order, the POCSO Court by its Judgment dated 19th December 2024, acquitted the petitioner of the charges. It is also pointed out that the victim, while testifying before the Court, did not make any incriminating statements against the petitioner. Therefore, when the disciplinary proceedings and the criminal case are based on similar facts, circumstances, and evidence, the acquittal in the criminal case will have a bearing upon the disciplinary proceedings. Hence, the impugned order dated 05.11.2022 is liable to be quashed, in view of the Judgment passed by the POCSO Court on 19th December 2024 in S.C.No.38 of 2020.

3. However, the said contention was strongly objected by the learned Additional Government Pleader and submitted that in a criminal case though,



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the witnesses turned hostile during the trial, all the witnesses had earlier given statements under Section 164(4) Cr.P.C. before the Magistrate, clearly narrating the incident and the acquittal in the criminal case was passed solely on the basis of the witnesses later turning hostile. Therefore, the acquittal order passed in S.C.No.38 of 2020 cannot be the basis to quash the impugned order dated 05.11.2022.

4. I have given my anxious consideration to the either side submissions and also perused the materials available on record.

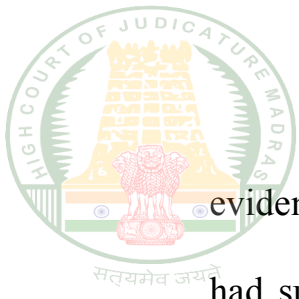
5. It is a well settled principle of law that mere acquittal in a criminal case will by *ipso facto* does not give any right to the delinquent to get discharge from the disciplinary proceedings. In the case on hand, the charge against the petitioner before the Criminal Court was under Section 9 (a) (3) read with Section 10 of the POCSO Act, 2012. On the similar set of facts, disciplinary proceedings were initiated, and the petitioner was removed from service based on the evidence available in those proceedings.



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6. Upon examining the judgment of the Criminal Court, it is evident that the learned Judge, in the order dated 19th December 2024, clearly noted that the victim had, in her statement recorded under Section 164(5) Cr.P.C., provided incriminating evidence against the accused. However, during the cross-examination at trial, she did not support the prosecution's case. Thus, the acquittal was granted primarily due to the witnesses turning hostile. Nevertheless, a reading of the statement under Section 164(5) Cr.P.C. shows that the victim had indeed spoken against the accused. Furthermore, it is the petitioner's contention that the victim was not examined during the disciplinary proceedings.

7. It is a well settled principles of law in disciplinary proceedings, the standard of proof is based on the preponderance of probabilities, not proof beyond reasonable doubt. Therefore, the mere non-examination of the victim during the disciplinary enquiry does not, by itself, indicate the absence of material evidence against the petitioner. While looking at the entire facts and circumstances of the case, the disciplinary authority arrived at its conclusion based upon the evidence available during the enquiry and the criminal proceedings, which was ended in acquittal is based upon the hostile nature of



evidence. Wherein, even Senthil Kumar, who is the father of the victim, who had supported the Management during the disciplinary proceedings, did not support the prosecution in the Criminal Court trial.

8. Therefore, a judgment of acquittal passed by a Criminal Court on the basis of hostile evidence does not confer any absolute right upon the delinquent to seek quashing of the final order passed in disciplinary proceedings. This legal position has been consistently upheld in a series of judgments. For ready reference, this Court deems it appropriate to rely on the decision in the case of *G.M.Tank vs. State of Gujarat and Another* reported in **2006 (5) SCC 446**. Hence, this Court does not find any merits in the present writ petition.

9. In the result, the writ petition is dismissed. No costs. Consequently, the connected miscellaneous petition stands closed.

21.07.2025

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Index : Yes

Speaking Order : Yes /No

Neutral Citation Case: Yes/No



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C. KUMARAPPAN, J.

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To:

The Superintendent of Police,
Thiruvarur District,
Thiruvarur.

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