



W.A.No.3628 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.01.2025

CORAM

**THE HON'BLE MR.JUSTICE R.SURESH KUMAR
AND
THE HON'BLE MR.JUSTICE C.SARAVANAN**

**Writ Appeal No.3628 of 2024
and CMP Nos.28408 of 2024**

1.The Director General of Police
Mylapore, Chennai.

2.The Deputy Inspector General of Police
Vellore Range, Vellore.

3.The Superintendent of Police
Vellore District, Vellore.

... Appellants

Vs.

S.Gnanamurthy
S/o.C.Sathyaseelan, No.6/6, School Street
Chakramallur Village and Post, Arcot Taluk
Vellore District.

.... Respondent

Writ Appeal under Clause 15 of the Letters Patent against the order dated
09.08.2023 in W.P.No.4021 of 2015.

For Appellants	:	Mr.M.Alagu Goutham, Government Advocate
For Respondent	:	Mr.K.S.Viswanathan Senior Counsel for Mr.R.Prem Narayan



W.A.No.3628 of 2024

WEB COPY

JUDGMENT

(Delivered by R.SURESH KUMAR, J.)

This intra Court appeal has been directed against the order passed by the Writ Court dated 09.08.2023 made in W.P.No.4021 of 2015.

2. The respondent/writ petitioner was working as a Head Constable in Vazhapandal Police Station, Vellore District. While so, disciplinary proceedings were initiated against him by serving a charge memo under Rule 3(b) of the Tamil Nadu Police Subordinate Services (Discipline and Appeal) Rules on 14.05.2013 consisting of three charges. The three charges have been extracted by the learned Writ Court and therefore we are not extracting the same.

3. After getting explanation and not being satisfied with the same, the employer appointed an enquiry officer and the enquiry went on. Based on the enquiry report, as all the charges framed against the delinquent / respondent have been proved according to the enquiry officer, the disciplinary authority imposed the punishment of compulsory retirement against the respondent/writ petitioner by order dated 20.12.2013. As against the said order, the delinquent preferred an appeal before the second respondent, who also confirmed the punishment by order dated 11.01.2014. A further appeal was preferred before the first respondent, who also confirmed the order passed by the disciplinary authority by his order dated



W.A.No.3628 of 2024

05.12.2014. Challenging all these orders, the delinquent/respondent approached

WEB.COM this Court by filing the said writ petition.

4. The learned Judge, who dealt with the said writ petition, has allowed the writ petition by setting aside the order of punishment on the ground of disproportionate punishment and modified the punishment into withholding of increment for one year without cumulative effect and further directed the appellant/employer to reinstate the petitioner into service with service continuity and full back wages and arrears of salary to be settled within a period of twelve weeks from the date of the order.

5. Assailing the said order, Mr.Alagu Goutham, learned Government Advocate would contend that, first of all the land in question which was meddled with by the delinquent is a Government Poramboke land. As the writ petitioner being a Government servant, that too from the disciplined force, ought not to have meddled with the Government Poramboke land by creating documents, that too unregistered and ultimately settled the property in favour of his wife through a registered document and therefore, the delinquent had violated the Code of Conduct.

6. Moreover, if at all any immovable property is to be purchased by a Government servant, as per the Rules which is in vogue, prior permission ought to



W.A.No.3628 of 2024

have been obtained by the respondent/writ petitioner and such a permission since was not obtained, he has committed violation of Code of Conduct Rules on that aspect also. Therefore, all the three charges, after a full fledged enquiry since have been proved, the punishment of compulsory retirement imposed on the delinquent is commensurate with the said charges. However, the said punishment has been interfered with by the writ Court on the ground that the transaction of purchasing the property and settling the same in favour of the wife of the delinquent is a private affair between the family members and therefore it has nothing to do with the official duty. That was the reason given by the learned Judge for taking a lenient view against the respondent / writ petitioner insofar as the charges 2 and 3.

7. In respect of charge No.1 pertaining to non-securing of prior permission to purchase an immovable property is concerned, the said charge even though was accepted as a violation, the learned Judge has drastically modified the punishment from compulsory retirement into withholding of increment for a period of one year without cumulative effect and further directed to pay the entire back wages as arrears of salary. Therefore, the learned Government Advocate would canvass the point that insofar as the charges that have been framed against the respondent/writ petitioner is concerned, those charges since have been proved and even though it is a property transaction, but since Government Poramboke land has been transacted by the delinquent/writ petitioner, that shall be taken seriously and it cannot be simply brushed aside as a family property transaction.



W.A.No.3628 of 2024

WEB COPY

8. Learned Government Advocate would also submit that the defence taken by the writ petitioner that since the property does not belong to the family of either the delinquent/writ petitioner or his wife or his in-laws and it is a Government property, ought not to have been accepted by the learned Judge, who had ultimately reduced the punishment drastically into that of withholding of increment without cumulative effect with a direction to pay the back wages as arrears of salary. Hence the learned Government Advocate seeks the indulgence of this Court.

9. When this writ appeal came up for hearing on earlier occasions, we have heard the matter and gave some directions on 11.12.2024, which reads as follows:

“Against the impugned order dated 09.08.2023, though appeal should have been filed within 30 days, we do not know as to for what reasons the appeal has been filed only on 09.09.2024, which is after more than a year, and after filing the appeal on 09.09.2024, we are also wondering as to why, without pursuing the appeal immediately, the appellant Department implemented the order passed by the Writ Court by issuing the proceedings of the Superintendent of Police dated 20.09.2024, which the respondent / writ petitioner is now taking advantage when the writ appeal is taken up for admission.

2. We feel that some deliberate attempt of filing this appeal belatedly has been made by the concerned officials thereby waited for more than a year and filed this appeal belatedly after an year and immediately after filing the appeal on 09.09.2024 only for statistical purposes, they wanted to implement the order dated 20.09.2024. This kind of attitude on



W.A.No.3628 of 2024

WEB COPY

the part of the officials even in the cases where the policemen had been instrumental in grabbing the property belongs to the Government, is very unfortunate and therefore, the first appellant should give a direction the third appellant viz., Superintendent of Police, Vellore, Vellore District to file a reply as to why the appeal has been belatedly filed after one year and after filing the appeal on 09.09.2024 why the third appellant proceeded to implement the order of the writ Court by issuing proceedings date 20.09.2024.

*3. Such an explanatory reply shall be filed by the appellants especially on the direction of the first appellant, by the third respondent by next week. Post the matter on **18-12-2024.**”*

10. Thereafter, on 18.12.2024, we have passed a further order, which reads thus:

The learned counsel appearing on behalf of the respondents, on instructions, would submit that the land in question is a Government Poromboke land, wherein the wife's maternal uncle had constructed a dwelling house, based on which, some partition had been taken place among the family members and the respondent has purchased the property from one of his brother-in-law and thereafter, he settled the property in the name of his wife.

2. All these transactions are illegal as there has been no title with regard to the property in question either with the uncle of the respondent's wife or subsequently, brother-in-law, from whom, the respondent has purchased the property and therefore, the respondent also does not have the title even to settle the property in favour of his wife. He would also submit that



W.A.No.3628 of 2024

WEB COPY

the dwelling house constructed by the uncle of the respondent's wife also now has been demolished. Only the debris i.e., after demolition, the remaining are there in the vacant land and it is in nobody's use.

3. Hence, the respondent counsel, on instructions, would submit that the respondent along with his wife would file a joint affidavit before this Court to relinquish all the claim that they have made over the land against the Government and for such compliance, the learned counsel for the respondent seeks time till 06.01.2025. Post the matter on 06.01.2025.”

11. Pursuant to our last direction given on 18.12.2024, after hearing the learned counsel appearing for the first respondent / writ petitioner today, when the case is taken up for hearing, Mr.K.S.Viswanathan, learned Senior Counsel appearing for the respondent/writ petitioner has filed a joint affidavit by the respondent/writ petitioner and his wife viz., one Baby Parimala. Inter-alia in the said affidavit, the deponents ie., the respondent/writ petitioner and his wife jointly have stated the following:

“ 8. The 1st and 2nd deponent hereby relinquish and release all their rights, titles, interests and claims over the above said land and property comprised in No.62. Karai Mathura Ranipettai Municipality Ward B, Block No.19, T.S.No.5, Nathalakuttai, Kellys Road, Old Door No.11, New Door No.13, M.F.Road (also known as Kellys Road), Ranipettai and bounded on the North by Mr.Alexander's house; South by Muralidas's vacant land; West by Road; and East by V.R.V.School Compound and within formerly Vellore District and at present Ranipettai District and within the jurisdiction of Wallaja Sub Registration Office, Arakkonam Registration District, to and in favour of the Government. The 1st and 2nd Deponent hereby state and undertake that they will not claim any right, title, interests as against the



W.A.No.3628 of 2024

Government, over the above said property.”

WEB COPY

12. Relying upon these averments and the undertaking solemnly given through the affidavit, Mr.K.S.Viswanathan, learned Senior Counsel for the respondent contended that the delinquent and his wife have realised that the property in question which was meddled with by the delinquent is a Government property and it does not confer any right on anyone including the in-laws of the respondent/writ petitioner and therefore, he ought not to have purchased the property and his further action of settling the property in favour of his wife is also unlawful and unjustifiable. Therefore, realising all these mistakes, the respondent/writ petitioner and his wife have come forward to file this joint affidavit and undertaking, whereby they have given up their claims and rights in respect of the said property, which they have described in Para 8 of the joint affidavit, as has been extracted herein above and therefore, the learned counsel for the respondents would seek the indulgence of this Court to take a lenient view against the respondent/writ petitioner by confirming the order passed by the learned Judge through the order impugned herein.

13. We have considered the submissions made by the learned counsel for both sides and have gone through the materials placed before us.

14. Insofar as the disciplinary proceedings that has been initiated against the

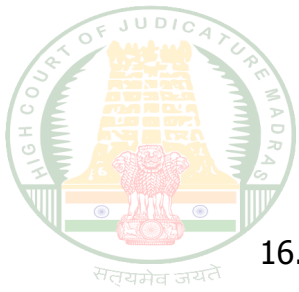


W.A.No.3628 of 2024

WEB COPY

respondent is concerned, no fault can be found on the employer as, the respondent being a member of the disciplined force working as a Head Constable, ought not to have meddled with the Government Poramboke land as if that the land belongs to the in-laws of the respondent/writ petitioner and creating a document which is unregistered and getting the property in his favour and thereafter settling the same in favour of his wife by way of a registered document. We are wondering as to how the Registration Department has registered such a settlement made in favour of the wife of the writ petitioner in respect of a Government Poramboke land, which issue also has to be looked into by the appellant Department by initiating appropriate action against the concerned registering authority.

15. That apart, out of the three charges it cannot be stated that the charge with regard to the meddling of the Government property has not been proved. Moreover, those charges cannot be simply brushed aside by stating that it is a private transaction among the family members. Such a conclusion can be arrived at only if the property belongs to the in-laws of the writ petitioner herein. Since it is a Government Poramboke land, it cannot be merely stated that it is a private transaction of the writ petitioner. Therefore, the reasons adduced by the learned Judge while disposing of the writ petition in giving up the other two charges apart from the charge of not obtaining permission from the employer while purchasing the immovable property, cannot be accepted.



W.A.No.3628 of 2024

16. However, as of now, the respondent/writ petitioner has come out with an undertaking affidavit along with his wife by realising the fact that the land belongs to the Government and therefore he has given up all his rights and claims over the property by way of the undertaking affidavit, which is taken on record.

17. However, merely because such an undertaking affidavit has been filed now after realising the mistake he has committed in meddling with the property belongs to the Government, the entire charges framed against him cannot be said to be vanished. Therefore, we feel that insofar as the proven charges against the respondent/writ petitioner including the charge under which the delinquent since has meddled with the property by purchasing the same from one of the family member of the wife of the delinquent by way of an unregistered document, that would amount to a violation of Code of Conduct as a member of the disciplined force, being a Government servant he ought not to have purchased any immovable property without the prior permission of the employer.

18. Therefore, for the said proven charge the respondent/writ petitioner certainly would be liable to be punished. However, what shall be the proportionality of the punishment is the only issue that has to be decided now.

19. In this context, even though the learned Judge has taken a very lenient



W.A.No.3628 of 2024

view and modified the punishment from that of compulsory retirement into the punishment of withholding of increment for one year without cumulative effect, the learned Judge also had given a direction to pay the back wages as arrears of salary. However, we feel that insofar as the said modification of punishment is concerned, even though the same can be accepted, at the same time we feel that the said minimum punishment cannot be said to be commensurate with the proven charges, even though now the respondent/writ petitioner has come out by filing an undertaking affidavit giving up all his claims and rights over the property in question.

20. The denial of back wages as arrears of salary would be a fitting punishment along with the withholding of increment for one year without cumulative effect for the proven charges. We feel this, in our considered opinion, would be the appropriate punishment. If such a punishment is awarded, then on the one side the writ petitioner first of all, would not claim any right over the property in question, which was the root cause of the disciplinary proceedings, on the other hand due to the infliction of the punishment of denial of back-wages, he will lose the salary from the date of his compulsory retirement till the date of his reinstatement. That will be the appropriate punishment for the proven charges against the respondent/writ petitioner.

21. In that view of the matter, we are inclined to dispose of this writ appeal



W.A.No.3628 of 2024

with the following orders.

WEB COPY

- The order passed by the Writ Court dated 09.08.2023 in W.P.No.4021 of 2015 is modified to the extent that the punishment shall be, withholding of increment for one year without cumulative effect and also the respondent/writ petitioner would not be entitled to seek for any back wages by way of arrears of salary during the period he was out of service ie., between the period of compulsory retirement till the date of reinstatement.
- However, it is made clear that the said period shall be considered as continuity in service for all other service benefit and retirement benefits.
- The respondent/writ petitioner is also directed to take immediate steps to cancel the settlement deed made in favour of his wife, as the same since has been registered as one of the registered documents in the concerned Registrar Office.



W.A.No.3628 of 2024

WEB COPY

- It is also open to the appellants to bring it to the notice of the Inspector General of Registration to take necessary action against the concerned officer who was instrumental in accepting such a registration of the document in respect of a Government Poramboke land.

22. With the above modification and directions, this writ appeal is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

(R.S.K.,J.) (C.S.N.,J.)
06.01.2025

NCS : Yes/No
Index : Yes/No
KST



WEB COPY



W.A.No.3628 of 2024

R.SURESH KUMAR, J.
AND
C.SARAVANAN, J.

KST

W.A.No.3628 of 2024

06.01.2025