



W.P.No.29563 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.08.2025

CORAM

THE HONOURABLE **MR.JUSTICE C.KUMARAPPAN**

W.P.No.29563 of 2025
and
W.M.P.No.33109 of 2025

G.Kaveri

... Petitioner

Vs.

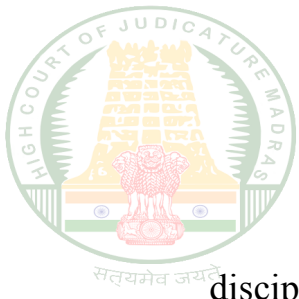
1.The Director General of Police,
Tamil Nadu, Mylapore,
Chennai 04

2.The Deputy Inspector General of Police,
Salem Range, Salem,
Salem District.

3.The Superintendent of Police
Dharmapuri,
Dharmapuri District.

... Respondents

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 relating to the impugned order of the first respondent in Rc. No.7278222/AP.2(2)/2023 dated 5.11.2024 modifying the punishment imposed on the petitioner by the third respondent in departmental



W.P.No.29563 of 2025

disciplinary proceedings in PR. No. H2/ 06/ 2012 dated 11.06.2013 which was affirmed by the 2nd respondent in and by his proceedings in Rc. No. B2/ 380 /5696 / 2013 dated 16.09.2013 and quash the said orders and direct the respondents to grant all consequential benefits to the petitioner

For Petitioner : Mr.P.Manoj Kumar

For Respondents : Mr.R.U.Dinesh Rajkumar
Additional Government Pleader

ORDER

This Writ Petition has been filed seeking to challenge the order passed by the 1st respondent on the petitioner's mercy petition.

2. The learned counsel appearing for the petitioner would submit that a charge memo was issued to him, to which he submitted his explanation on 02.05.2013. After completion of the domestic enquiry, the Enquiry Officer submitted his report on 16.05.2013. Based on such enquiry report, the respondent called for a further representation and the petitioner submitted the same on 17.05.2013.



W.P.No.29563 of 2025

WEB COPY

3. It is the case of the petitioner that the Disciplinary Authority, by an order dated 11.06.2013, imposed the punishment of stoppage of increment for three years with cumulative effect. Aggrieved by the same, the petitioner preferred an appeal before the Deputy Inspector General of police and the appellate authority, by an order dated 16.09.2013, confirmed the punishment. In the meanwhile, the petitioner approached this Court by way of writ petition in W.P.No.35469 of 2023 seeking consideration of his mercy petition. This Court vide order dated 04.01.2024 directed the Director General of Police to consider the mercy petition of the petitioner and pass orders on merits and in accordance with law within a period of 12 weeks. The 1st respondent thereafter passed an order on 05.11.2024.

4. The learned counsel appearing for the petitioner contended that the Director General of Police, without applying his mind, passed the order dated 05.11.2024 and failed to consider the perversity in the orders of the appellate authority as well as the Disciplinary Authority, Hence, prays interference.



W.P.No.29563 of 2025

WEB COPY

5. The learned Government Advocate appearing for the respondents strongly objected the petition, contending that there is an inordinate delay in challenging the impugned punishment. The punishment was imposed as early as on 11.06.2013 and confirmed on 16.09.2013. Though the learned counsel would submit that the 1st respondent has passed an order on 05.11.2024, it is only based upon the orders of this Court and does not create a fresh cause of action. Therefore, simply based upon the direction of this Court to consider the petitioner's representation, a concluded cause cannot be revived. The learned Government Advocate relying upon the judgment of the Hon'ble Supreme Court in *State of Karnataka & Anr Vs. Umesh* (C.A.Nos.1763-1764 of 2022).

6. I have given my anxious consideration to either side submissions.

7. In the instant case, the petitioner is attempting to challenge the order of the 1st respondent passed on a mercy petition. This Court, in



W.P.No.29563 of 2025

WEB COPY

various judgments, has categorically held that the Director General of Police has no jurisdiction to pass orders under the Police Discipline and Appeal Rules, as the said rules do not confer any power upon the DGP to sit in appeal over the orders of the appellate authority or to exercise any power of review. Therefore, on the face of it, the order of the Director General of Police dated 05.11.2024 cannot give any cause of action to the petitioner to challenge the appellate authority's order and the order of the Disciplinary Authority.

8. At this juncture, this Court would like to refer the judgment of the Hon'ble Supreme Court in ***State of Karnataka Vs. Umesh***, wherein in paragraph 17, the Hon'ble Supreme Court has observed as below:-

“17.In the exercise of judicial review, the Court does not act as an appellate forum over the findings of the disciplinary authority. The Court does not re-appreciate the evidence on the basis of which the finding of misconduct has been arrived at in the course of a disciplinary enquiry. The Court in the exercise of judicial review must restrict its review to



WEB COPY



W.P.No.29563 of 2025

determine whether: (i) the rules of natural justice have been complied with; (ii) the finding of misconduct is based on some evidence; (iii) the statutory rules governing the conduct of the disciplinary enquiry have been observed; and (iv) whether the findings of the disciplinary authority suffer from perversity; and (vi) the penalty is disproportionate to the proven misconduct. However, none of the above tests for attracting the interference of the High Court were attracted in the present case. The Karnataka Administrative Tribunal having exercised the power of judicial review found no reason to interfere with the award of punishment of compulsory retirement. The Division Bench of the High Court exceeded its jurisdiction under Article 226 and trenched upon a domain which falls within the disciplinary jurisdiction of the employer. The enquiry was conducted in accordance with the principles of natural justice. The findings of the Inquiry Officer and the disciplinary authority are sustainable with reference to the evidence which was adduced during the enquiry. The



WEB COPY



W.P.No.29563 of 2025

acquittal of the respondent in the course of the criminal trial did not impinge upon the authority of the disciplinary authority or the finding of misconduct in the disciplinary proceeding.”

9. Referring to the above judgment, unless there is a violation of the principle of natural justice or findings are without any basis or the findings are perverse, the writ Court cannot interfere with the decision of the Disciplinary Authority.

10. It is well settled principle in law that, while exercising the power of judicial review, this Court cannot re-appreciate the evidence let in before the Disciplinary Authority as well as the appellate authority. In this case, the order of the 1st respondent was passed only based upon the direction of this Court in a writ petition. Therefore, simply by filing the writ petition, the petitioner cannot revive a dead cause of action. The case in hand, the petitioner's appeal has already been disposed of during the year 2013. Therefore, after a lapse of 10 years, since because the DGP has passed an order based upon the directions of this Court will not



W.P.No.29563 of 2025

WEB COPY

have any right to challenge the Disciplinary Authority as well as Appellate Authority.

11. Accordingly, this Court finds no merits in the present writ petition. In the result, this Writ Petition is dismissed. Consequently, the connected Miscellaneous Petition is closed. No costs.

07.08.2025

rpl

To

1.The Director General of Police,
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W.P.No.29563 of 2025

C.KUMARAPPAN, J.

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W.P.No.29563 of 2025

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