



WEB COPY

W.A.No. 583 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.02.2025

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
AND
THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

W.A.No. 583 of 2024
and
C.M.P.No. 4083 of 2024

1.The Director General of Police,
Mylapore, Chennai - 04.03.2024

2.The Additional Director General of Police,
Training, Ashok Nagar,
Chennai.

3.The Deputy Inspector General of Police, Training,
Ashok Nagar, Chennai - 83.

... Appellants

Vs.

Raadhu Raji (Formerly R.D.Rajathi)

...Respondent

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent, against the order dated 14.12.2022 made in W.P.No.7370 of 2017.

For Appellants : Mr.John J.Raja Singh
Additional Government Pleader
For Respondent : Mr.S.Sivakumar



J U D G M E N T

(Judgment of the Court was made by R.SUBRAMANIAN, J.)

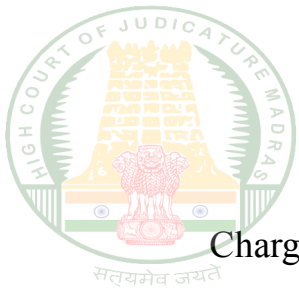
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The Department is on appeal, aggrieved by the order of the writ court, setting aside the punishment imposed on the respondent for certain misconduct.

2. The respondent, who was working as a Women Sub-Inspector of Police was charged with certain delinquencies and after issuance of a charge memo, a departmental enquiry was conducted against her. The charges were of two counts and sum and substance of the same are as follows:-

"Count:-1: Reprehensible conduct in having illegal contact with Tr.P.Shanmuga Sundaram, Sub Inspr of Police, Kangayam P.S. (Now under suspension) and creating a bad name to the Police department and set a bad example being a young Sub Inspector before other police personnel of police disciplinary force.

Count -2: Highly reprehensible conduct in having Harassed, assaulting Tmt.Sasikala, wife of Tr.P.Shanmuga Sundaram, Sub Inspr of Police, Kangayam P.S. (Now under suspension) demanding cash Rs.5,00,000/-, a car as dowry. 3 months after 09.09.2002 at O.M. Quarters, Bhavanisagar."



3. After enquiry, the Enquiry Officer returned a finding that the Charge No.1 has been proved and the Charge No.2 was held to be not proved. The disciplinary authority accepted the findings of the Enquiry Officer and imposed a punishment of stoppage of increment with cumulative effect for a period of two years. Aggrieved, the respondent preferred an appeal before the Appellate Authority namely, the Additional Director General of Police. The Appellate Authority, by its order dated 15.07.2011, sustained the findings. It, however, reduced the punishment to postponement of increment for two years without cumulative effect. A mercy petition filed by the respondent was reject, forcing her to approach this Court.

4. The learned single Judge has set aside the punishment on the ground that the Enquiry Officer had chosen to rely upon the statements made by witnesses at the preliminary enquiry, ignoring to contradictions in the evidence of the witnesses during the disciplinary proceedings. The learned single Judge also referred to various pronouncements of this Court and the Hon'ble Supreme Court regarding the veracity of the statements made during the preliminary enquiry. It was also pointed out that many of



the witnesses had turned hostile during the disciplinary proceedings. On the above findings, the learned single Judge set aside the order of punishment and also directed the appellants to notionally promote the respondent to the post of Inspector with effect from the year 2012, together with all service and monetary benefits. Aggrieved, the Department has come up with this appeal.

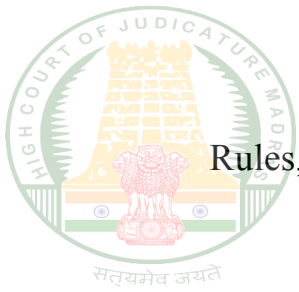
5. We have heard Mr. John S. Raja Singh, learned Additional Government Pleader appearing for the appellants and Mr. S. Sivakumar, learned counsel appearing for the respondent.

6. Mr. John S. Raja Singh, learned counsel appearing for the appellants would vehemently contend that the learned single Judge was not right in concluding that the Enquiry Officer has relied upon the statement of witnesses made during the preliminary enquiry to reach the conclusion of guilt. He would point out that the evidence of P.W.1 & P.W.2 namely, the wife of the other delinquent, Sub-Inspector, Mr. Shanmugasundaram and his father-in-law remain unchallenged and the Enquiry Officer had accepted the said evidence. The fact that P.W.3 had turned hostile and the Enquiry



Officer had made certain observations about her conduct will not affect the conclusions of the Enquiry Officer. Therefore, according to the learned counsel for the appellants, the Writ Court was not right in concluding that the Enquiry Officer had taken into account the statements made during the preliminary enquiry and has brushed aside the evidence that was placed before the disciplinary proceedings.

7. Contending contra, Mr.S.Sivakumar, learned counsel for the respondent would submit that Rule 4A of the Tamil Nadu Police (Discipline and Appeal) Rules, 1955 mandates a joint enquiry where, more than one member of service is involved has been validated. He would also point out that the other Officer namely, Mr.P.Shanmugasundaram, Sub-Inspector of Police, Kangeyam, who was alleged to be involved in a relationship outside marriage with the respondent was also charged with the same charge and in the enquiry, it was concluded that the said charge, which was Charge No.6 has not been proved. However, in the disciplinary enquiry held as against the respondent, the very same charge has been held to be proved. This according to the learned counsel would vitiate the entire disciplinary proceedings. Rule 4A of the Tamil Nadu Police (Discipline and Appeal)



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Rules, 1984 reads as follows:-

"Rules 4A. In any case, where more than one member of the service are involved, the authority competent to institute disciplinary proceedings and impose any of the penalties specified in rule 2 shall be the authority in respect of the member who holds the highest post and the disciplinary proceedings against all of them shall be taken together.

Provided that in the case where a member of the service and a member of other service are jointly involved or whose cases are inter connected, the Government shall be the authority competent to initiate disciplinary proceedings against the member of the service and impose any of the penalties specified in rule 2 and in such cases the administrative department of Secretariat in respect of the member who holds the highest post will initiate such disciplinary proceedings and issue final orders after complying with the entire procedure laid down in these rules."

8. The above said rule mandates that when two members of service are involved, the disciplinary proceedings shall be taken together. This rule has been inserted with an object to prevent different conclusions on the same charge against two different members of the service. Rule 4A was not complied with in the instant case, leading to two different conclusions on the same charge against the two members of the service. This, in our opinion, has resulted in one Officer, who has been charged with a same charge being let off and another person being punished. This cannot be permitted.

9. The charge itself is that the respondent and



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Mr.P.Shanmugasundaram, Sub-Inspector of Police, Kangeyam had a relationship outside the marriage, which resulted in bringing bad name to the police force. The said charge against the Sub-Inspector, Mr.P.Shanmugasundaram has been held to be not proved. Therefore, the very same charge against the petitioner cannot be held to be proved by another Enquiry Officer.

10. We therefore, sustain the order of the Writ Court on the short ground that the failure to adhere to Rule 4A had resulted in conflicting findings and the respondent would be entitled to the benefit of such procedural violation. We therefore, confirm the order of the Writ Court, though for different reasons. This Writ Appeal therefore, fails and it is accordingly, **dismissed**. No costs. Consequently, connected miscellaneous petition is closed.

(R.S.M., J.) (G.A.M., J.)
18.02.2025

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Index: No
Speaking order
Neutral Citation :No



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