



W.P.No.17703 of 2007

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Dated : 30.01.2025

CORAM

THE HON'BLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.17703 of 2007

C.Rangaswami

.. Petitioner

Vs.

1.The Secretary to Government,
Home Department (POL 2),
Fort St.George, Chennai.

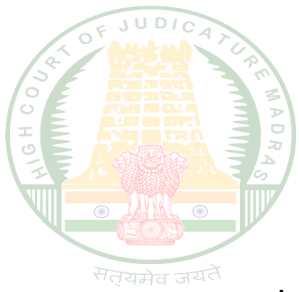
2.The Director General of Police,
Tamil Nadu,
Radhakrishnan Salai,
Chennai - 600 004.

3.The Inspector General of Police,
South Zone, Madurai.

4.Tamil Nadu Public Service Commission,
Rep., by its Secretary,
Chennai – 600 002.

.. Respondents

Prayer: Originally this petition has been filed as Original Application No.1820 of 2004 before the Tamil Nadu Administrative Tribunal at Chennai and after abolition of TNAT, application has been transferred and numbered as W.P.No.17703 of 2007.



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Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records of the 1st respondent in connection with its order dated 08.05.2002 in G.O.(2D)No.172 removing the petitioner from service as confirmed by the order of the 1st respondent in G.O.(2D) No.48 Home (POL.2) dated 23.01.2004 rejecting the petitioner's review petition and quash the same and direct the respondents 1 & 2 to permit the petitioner to retire with full attendant monetary and other benefits.

For Petitioner : Mr.B.Prahalad Ravi

For R1 to R3 : Mr.P.Ganesan

For R4 : Mr.R.Bharanidaran

ORDER

Based upon an incident, alleged mis-conduct said to have been committed by the petitioner while he was working as Inspector of Police, and In-charge the post of Inspector of Police at Vellakoil Circle from 09.08.1991 to 10.04.1992, the petitioner was subjected to disciplinary proceedings by issuing a charge memo on 10.11.1994 containing two charges. The said charges are as follows:

“(i) Highly reprehensible conduct and gross neglect of duty and slack supervision in not allowing Head Constable 1072 Dhanapal of Vellakoil Police Station to register a case under the



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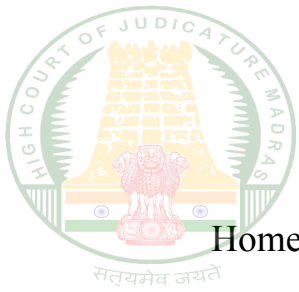


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relevant section of law on the oral complaint over phone by one Ganesan about the molestation of one Ponnammal @ Pappathi on 21.9.91 at 06.00AM near Veerakumar Theatre Palaniswamy Nagar Vellakoil by one Sivagurunathan S/o.Subbiah Padayachi, Keelpavoor Village, Thenkasi Taluk.

(ii) Gross neglect of duty and highly reprehensible conduct and conniving with Head Constable 1072 Dhanapal who registered a false prohibition case against Sivagurunathan in Vellakoil Police Station Cr.No.381/91 u/s.4(i)(a) TNP Act on 21.9.91 at 06.30 hrs and tortured the said Sivagurunathan at Vellakoil Police Station due to which he succumbed to injuries and arranged the body to be tied in a babool tree in S.No.175/B Kuttaikadu in Thennilai Police Station limits Trichy District so as to appear it as if the accused Sivagurunathan Committed suicide.”

Thereafter, the petitioner submitted his reply, denying the charges and in view of the same, an Inquiry Officer was appointed to enquire into the charges. The Inquiry Officer, after conducting enquiry, submitted his report on 09.10.1999 holding that the charges levelled against the petitioner are proved. A copy of the report of the Inquiry Officer was furnished to the petitioner, giving an opportunity and accordingly, the petitioner submitted his further representation on 12.01.2000. Thereafter, the respondent/Government issued orders on 28.01.2000 vide G.O (2D) No.21

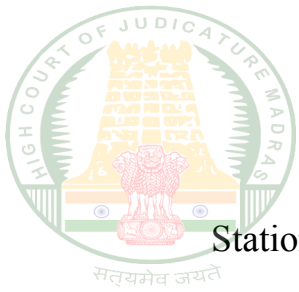


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Home Department dated 28.01.2000 placing the petitioner under suspension and another order vide G.O (2D) No.23 Home Department dated 31.01.2000, relieving the petitioner from service while not permitting the petitioner to retire from service on attaining the age of superannuation. Thereafter, the entire file was circulated to the Tamil Nadu Public Service Commission (hereinafter referred as TNPSC) and on receipt of the views of TNPSC, the 1st respondent issued orders vide G.O (2D) No.48 Home Department (POL.2) dated 23.01.2004, imposing the punishment of removal from service on the petitioner. Aggrieved by the said order, the petitioner approached this Court by filing the present writ petition.

2.Before examining the matter on merits, it is necessary to note certain background facts and service particulars of the petitioner. The petitioner herein was initially appointed as Sub-Inspector of Police in the month of November 1965 and promoted to the posts of Deputy Inspector of Police and Inspector of Police on 19.12.1975 and 11.04.1977 respectively. While the petitioner was working as Inspector of Police, the petitioner was deputed as In-charge of the post of Inspector of Police of Vellakoil Police



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Station from 09.08.1991 to 10.04.1992. During the said period, an allegation

was levelled against the Head Constable of the said Police Station namely Mr.Dhanapal for having not registered a complaint based upon the information received through a phone call and also on the ground that the said Dhanapal has registered a false prohibition case against one Sivagurunathan. The said Sivagurunathan was alleged to have died due to the injuries suffered at the said police station and the death of said Sivagurunathan was portrayed as a case of suicide by the said Mr.Dhanabal. Thus, the entire allegation of mis-conduct was against the said Mr.Dhanabal. The mis-conduct which was alleged under both the charges is negligence of duty and slack supervision. As already noted above, the petitioner was holding the post of Inspector of Police of Vellakoil Police station, as incharge only.

3.The respondent/Government after having received further representations of the petitioner and views of TNPSC, issued the impugned order dated 08.05.2002, almost two years after the petitioner was relieved from service on attaining the age of superannuation.



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4.A perusal of the impugned order discloses that the 1st respondent has taken note of the charges levelled against the petitioner, findings of the Inquiry Officer, views of TNPSC and the same were extracted in extenso in the impugned Government Order. Having extracted the same, the respondent/Government instead of examining the merits and demerits of the case set up by the petitioner including contentions raised in his further explanation dated 12.01.2000 submitted after the receipt of report of Enquiry Officer, simply passed orders, accepting the views of TNPSC and proceeded to impose punishment of removal from service as suggested by TNPSC. TNPSC is not the Disciplinary Authority. From the impugned order, there is nothing to suggest that the Government has applied its mind to the charges levelled against the petitioner, the defense of the petitioner and other factors including the fact that the petitioner had already attained the age of superannuation on 31.01.2000 itself.

5.However, it is also necessary to notice that the alleged incident which is the basis for initiating Disciplinary Proceedings against the petitioner, had taken place on 21.09.1991. Enquiry in to the said aspect was



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conducted and the charge memo itself was issued on 10.11.1994 i.e. after a lapse of three years and thereafter, enquiry was conducted after a lapse of five years and then the impugned order came to be passed after a lapse of nearly eleven years since the alleged incident which is the root cause for the initiation of disciplinary proceedings.

6.Thus, it is evident that the Government has not applied its mind on the facts of the case and in a mechanical manner, passed the impugned order based on the views given by the TNPSC. Therefore, the impugned order is liable to be set aside on the ground of non-application of mind.

7.Be that as it may, both the charges levelled against the petitioner are only the slack supervision or negligence in performing his duty as Inspector of Police. As noted above, the petitioner was holding In-charge of Inspector of Police of Vellakoil Police Station for a short period and he was not a regular officer. Though there is allegation against the Head Constable Mr.Dhanabal, in the impugned order, without there being any discussion on the charges, the Inquiry Officer proceeded to hold that the charges in

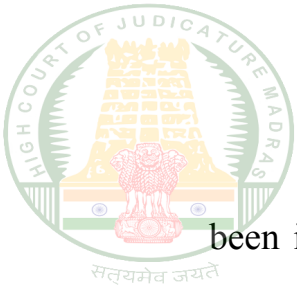


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entirety are proved. Such finding recorded by the Inquiry Officer without discussion and without any reference to the allegation levelled against the petitioner in the charges, cannot be sustained.

8.The respondent/Government passed the impugned order, without examining as to whether the findings given by the Inquiry Officer are based on the evidence and also without taking into consideration the objections raised by the petitioner against the report of the Inquiry Officer. In fact, the allegation against the petitioner in both the charges is only slack supervision/negligence in performing his duty. As noted above, the petitioner was appointed as Sub-Inspector of Police in the month of November 1965 and continued his service till 31.01.2000, the date on which the petitioner was relieved from service on attaining an age of superannuation. Thus, the petitioner had completed 35 years of service in the respondent department.

9.This Court, on taking note of all the facts and the submissions made by the learned Additional Government Pleader that the petitioner has not



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been involved in any other departmental proceedings or punishment in his entire service except the present impugned punishment and also on taking note of nature of charges levelled against the petitioner i.e. slack of supervision/negligence of duty, which happens to be only misconduct during the entire service of 35 years, the punishment of removal of service based upon mere allegation of slack supervision when the petitioner was holding In-charge of Inspector of Police of Vellakoil Police Station, is of the considered view that the impugned punishment is shockingly disproportionate. The Government, without considering all these aspects, in an arbitrary and mechanical manner, passed the impugned order that too after a period of two years since the petitioner attained the age of superannuation, which, in the considered opinion of this Court, cannot be sustained and the same is liable to be set aside.

10.The very purpose of conducting enquiry is only to see that the petitioner is granted sufficient opportunity to put forth his case. The Government, while deciding on a punishment on an employee based on disciplinary proceedings, they are legally obligated to carefully review and



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consider the defense presented by the employee, as well as the findings recorded by the Inquiry Officer who conducted the enquiry, before issuing a final punishment order. If the Government fails to adequately consider the defense put forth by the petitioner and inquiry officer's findings, the final order of punishment passed by it, cannot be sustained. In the present case, on a perusal of the impugned order of punishment, dated 08.05.2002 passed by the first respondent, reveals that there is no consideration of the defense put forth by the petitioner, but merely extracted the explanation given by the petitioner as well as the findings of the Inquiry Officer and no reasoning has been given for acceptance of the findings of the Inquiry Officer, which shows that there is no proper application of mind. Therefore, mere extracting the explanation and the findings of the Inquiry Officer, does not amount to adequate consideration of the matter, particularly in the matter of awarding punishment of removal from service. Therefore, on this ground also, the impugned order of punishment is liable to be quashed.

11. Though the petitioner has filed a revision and pending before the revisional authority, since the impugned order has been passed by total non-application of mind, even the matter is remitted back for reconsideration, no

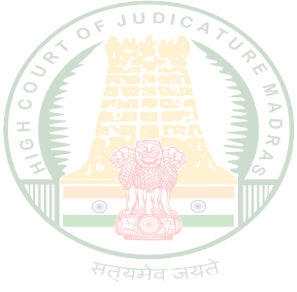
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purpose would be served and further, this Court has already come to the conclusion that the punishment of removal from service is shockingly disproportionate and the same cannot be sustained. Taking note of the fact that there was considerable delay in concluding the disciplinary proceedings and further, by virtue of the order of punishment, the petitioner was not allowed to retire though he attained the age of superannuation, which also disentitled him to claim his terminal benefits for the past 25 years, which would operate as sufficient punishment and as such, this Court is of the view that there is no necessity to remand the matter back for fresh consideration and imposing proper punishment.

12. Accordingly, the impugned order, dated 08.05.2002 is hereby quashed. The respondents are directed to pass appropriate orders permitting the to retire from service with effect from 31.01.2000 and settle all his terminal benefits as expeditiously as possible, preferably within a period of two months from the date of receipt of a copy of this order.



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13. With the above direction, this writ petition is allowed. No costs.

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Index : Yes/No

Internet: Yes/No

Speaking/Non-Speaking Order

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