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W.P. No.28557 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.03.2025

CORAM :

THE HONOURABLE Ms. JUSTICE **R.N.MANJULA**

W.P.No.28557 of 2018

N.Sahadevan

... Petitioner

Vs.

1.The Superintendent of Police,
Dharmapuri District.

2.The Director General of Police,
Tamil Nadu, Chennai-4

3.The Deputy Inspector General of Police,
Salem Range, Salem.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorari, calling for the records of the 1st respondent in connection with the impugned order passed by him in Na.Ka.No.H1/PR.No.66/2014 u/r 3(b) dated 24.04.2017 and confirmed by the 2nd respondent in his RC.No.187680/AP.2(2)2017 dated 31.03.2018 and quash the same and grant such other further relief.

For Petitioner : Ms.R.Deepika Sonali
for Mr.M.Muthappan



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For Respondents : Mr.T.Chezhian
Additional Government Pleader

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ORDER

The Writ Petition has been filed to call for the records from the 1st respondent by order dated 24.04.2017, in Na.Ka.No.H1/PR.No.66/2014 issued under Rule 3(b) and as confirmed by the order of the 2nd respondent in RC.No.187680/AP.2(2)2017 dated 31.03.2018.

2. The petitioner was working as a Head Constable attached to Thoppur Police Station. During the relevant period, he was on deputation to a special team for prevention of crimes in Dharmapuri district. On 08.10.2013, he was suspended from service on allegations that he had connections with criminals for wrongful gains. A criminal case has also been registered in Crime No.220 of 2013, for offences under Sections 317, 409 & 411 IPC. After investigation, a charge sheet has also been filed before the Judicial Magistrate-II, Dharmapuri district.

3. The petitioner was kept under suspension on 08.10.2013. Thereafter, he was issued a charge memo on 16.04.2014. Subsequently, disciplinary proceedings were initiated and an enquiry officer was appointed.

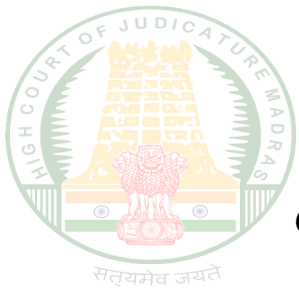


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After the conclusion of the enquiry, the charges against the petitioner were found to be proved. The 1st respondent, accepting the enquiry report, has imposed a punishment of stoppage of two increments with cumulative effect.

4. The petitioner preferred an appeal on 05.06.2017, however it was dismissed on the grounds of being barred by limitation. Thereafter, the petitioner filed a mercy petition before the 2nd respondent and an order was passed on 31.03.2018. The punishment was modified from the stoppage of two increments with cumulative effect to the stoppage of two increments without cumulative effect. The petitioner has filed a writ petition challenging the order of punishment imposed by the 1st respondent and subsequently modified by the 2nd respondent.

5. The learned counsel appearing for the petitioner submitted that the order of the 1st respondent is a non speaking order and that the disciplinary authority has arrived at a wrong conclusion. It is further submitted that on the very same allegations, the criminal case filed against the petitioner was ended an acquittal.



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6. The learned Additional Government Pleader appearing for the respondents submitted that the standard of proof required in a criminal case and the department proceedings is fundamentally different. Hence, the petitioner cannot claim that the benefit of acquittal should impact the disciplinary proceedings. The charges against the petitioner were proved before the enquiry officer based on the materials produced during the enquiry. The disciplinary authority has chosen to accept the same and imposed the punishment of stoppage of two increments. The respondents 1 and 2 have conceded the materials available on record by making thorough scrutiny then only passed the order of punishment and modification.

7. The petitioner was charged with allegations that he encouraged theft committed by the accused and enriched himself from the crime proceeds. However, on perusal of the records, it is seen that the very same materials and the witnesses in the disciplinary proceedings were also produced before the criminal Court.

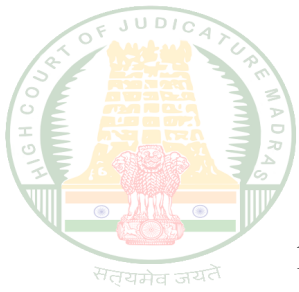
8. No doubt, the standard of proof required in criminal and civil Courts and on reference in the disciplinary proceedings is sufficient to arrive at a conclusion based on the preponderance of probabilities. The petitioner



has not chosen to stay the departmental proceedings despite alleging that the same set of facts formed part of the criminal proceedings also. In the criminal case, the petitioner came to be successful and got acquittal.

9. It appears that the departmental proceedings were continued even after the criminal case in C.C.No.103 of 2015 was over. However, the witnesses examined on the side of the department in the disciplinary proceedings are same witnesses who were examined in the criminal case. While imposing the punishment, the 1st respondent has simply accepted the enquiry report even without assigning any reasons as to how he was convinced by the evidence available on record.

10. Throughout the disciplinary proceedings, the petitioner has denied the charges and even does not cross examine some of the witnesses examined on the side of the department and none of the witnesses have stated that the knowledge about the alleged connivance of the petitioner with the accused to steal things belonging to the public. Unfortunately, the petitioner has not filed appeal within the prescribed time limit. Instead he has submitted a mercy petition before the 2nd respondent.

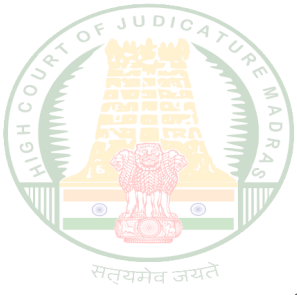


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11. The 2nd respondent modified the order of the 1st respondent in the impugned order issued on the mercy petition. It is not obligatory on the part of the 2nd respondent to deal with the petitioner's representation on merit, but to ensure whether the petitioner deserves mercy. However, in the instant case, the charges against the petitioner were very serious in nature. Though he was acquitted in the criminal case, there are materials available on record to show that the petitioner had indulged in the indirect act of theft by colluding with the accused. For the reasons best known to the respondents 1 and 2, no severe punishment has been imposed.

12. As the petitioner did not prefer any appeal in time and considering the nature of the allegations, the 2nd respondent justified in not showing mercy. Therefore, the order of the 2nd respondent cannot be set aside.

13. As stated already, the order of the 1st respondent has not been challenged before the appellate authority on time and it got dismissed in the extraneous circumstances involved in the case as dealt above. Hence I do not find any reason to interfere with the order passed by the 1st respondent as modified by the 2nd respondent.



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14. In view of the above, the Writ Petition stands dismissed. There shall be no order as to costs.

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Index : Yes/No

Speaking Order : Yes/No

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R.N.MANJULA,J.

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