



W.P.(MD).No.5675 of 2019

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.02.2025

CORAM:

THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

W.P.(MD).No.5675 of 2019

and

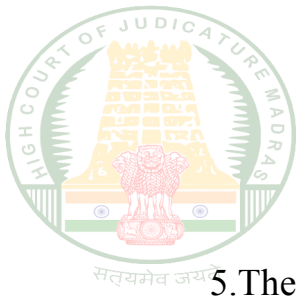
WMP.(MD).No.4 of 2021

T.Handiran

.. Petitioner

Vs.

- 1.The Director General of Police,
Office of the Director General of Police,
Chennai.
- 2.The Inspector General of Police,
South Zone,
Office of the Inspector General of Police,
Madurai.
- 3.The Deputy Inspector General of Police,
South Zone,
Office of the Deputy Inspector of General of Police
Dindigul.
- 4.The Superintendent of Police,
Theni District,
Theni.



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5. The Inspector of Police,
Commercial Crime Investigation Wing (CCIW),
Office of Commercial Crime Investigation Wing,
Rethinam Nagar,
Theni,
Theni District.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus calling for the records pursuant to the impugned order compulsory retirement order passed by the 4th respondent dated 16.06.2014 in D.O.No. 529/2014/PR-33/F1/2013 and quash the same as illegal, against the equity and natural justice and further direct the respondents to reinstate the petitioner in service in accordance with the seniority.

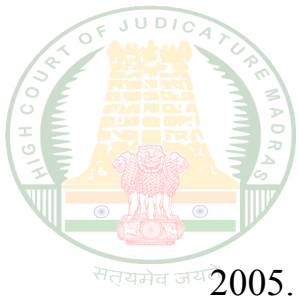
For Petitioner : Mr.M.A.M.Raja

For Respondent : Mr.G.V.Vairam Santhosh
Additional Government Pleader

ORDER

Under assail is the order of compulsory retirement dated 16.06.2014, passed by the Superintendent of Police, Theni District.

2. It is the case of the writ petitioner is that the petitioner that petitioner joined in the police service, as Second Grade Constable in the year 1993, then he was promoted as First Grade Constable in the year



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2005. Then he was upgraded to Head Constable in the year 2008. He was transferred to CCIW wing, Theni, in the year 2003. He was transferred to Theni from Madurai in the year 2011.

2 (i). The petitioner was put under suspension and a charge-memo was issued for two persons in PR 33/2013 under Rule 3 (b) of the TNPSS (D&A) Rules, 1955 and he was given memorandum of suspension for two reasons, one is for his absence in joining the duty and other is for the registration of FIR in Crime No.100/2011, under Section 506 (i). The Deputy Superintendent of Police, Andipatti was appointed as Enquiry Officer. The case registered in Cr.No.100/2011 was taken on file before the learned Judicial Magistrate, Theni in C.C.No.174 of 2015 and he was acquitted *vide* judgment dated 16.11.2015, after full trial.

2 (ii). The petitioner has submitted his explanation before the Enquiry Officer that the criminal case in CC.No.174 of 2015 as against the petitioner was ended in acquittal. Hence, there is no charge against him for giving compulsory retirement. The impugned compulsory retirement order passed by the fourth respondent was reviewed by the



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first respondent in his proceedings in 63/A2/2014 dated 07.08.2014. The fourth respondent had issued the impugned order of compulsory retirement dated 16.06.2014 then the petitioner was asked to go for the compulsory retirement by the fourth respondent. Otherwise, the fourth respondent will threaten him that he would pass an order for dismissal. Hence, without knowing of fact, the impugned order passed by the respondent dated 16.06.2014 was reviewed by the fourth respondent. He had received the pension only on 11.05.2017. The authorities had given only with respect of his savings during his service. The 1st respondent reviewed the, order of 4th respondent, without notice to him. Hence, it is against the natural justice. Hence this writ petition.

3. The learned counsel appearing for the petitioner would submit that the impugned order of compulsory retirement dated 16.06.2014 was given to the petitioner without considering the review order passed by the first respondent dated 07.08.2014. The fourth respondent has never considered the case on merits and never considered the departmental enquiry and had even never given opportunity for disposal of the review petition. The fourth respondent had no *locus-standi* to pass an order and



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the order impugned, compulsory retirement dated 16.06.2014. The 4th respondent had never considered the case on merit and never considered conclusion of the Criminal Case.

4. *Per-contra*, the learned Additional Government Pleader appearing for the respondents would submit that the petitioner was relieved from ADGP, EOW Unit, on administrative ground on 19.02.2011 but he did not report in Theni District till 11.03.2011. He was involved in a criminal case in Alinagaram PS.C.No.100/2011 under Section 506 (I) of IPC. As the absence of 21 days did not accrue and he was placed under suspension for involvement of a criminal case on 11.03.2011. After giving sufficient opportunity to him to defend the departmental proceedings, the Disciplinary Authority has passed the reasoned order, there is no violation in following the procedures laid down in “Tamil Nadu Police Sub-Ordinate Service (Disciplinary and Appeal) Rules 1955” hereinafter referred as (“TNPSS (D&A) Rules, 1955”).



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5. It is seen from records that the fourth respondent has issued a charge-memo to the petitioner on 28.03.2013 and the petitioner has submitted his representation *vide* letter dated 26.08.2013 thereafter as per the notification dated 27.08.2013, the departmental enquiry proceedings has been commenced by appointing Deputy Superintendent of Police, Andipatti is the Enquiry Officer, the petitioner after receiving his charge-memo has submitted his written submissions dated 16.10.2013. The Enquiry Officer after conducting the departmental proceedings after giving sufficient opportunity to defend his case and finds that the charges levelled against the petitioner stood proved. Thereafter, the petitioner had submitted his further representation dated 07.12.2013 to the Superintendent Of Police, Theni District.

6. After considering the same, the Superintendent Of Police, Theni District passed an order dated 16.06.2014, imposing the punishment of compulsory retirement from service and the order of the compulsory retirement in PR No.33/2013 under Rule of TNPSS (D&A) Rules, 1955 dated 16.06.2014 was duly served to the petitioner.



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7. The learned counsel appearing for the petitioner would submit that the review order passed by the Deputy Inspector General of Police, Dindigul Range dated 07.08.2014 was not communicated to the petitioner and the petitioner was also not aware of the review order passed by the Deputy Inspector General of Police. Therefore, the petitioner was to constrained to file writ petition before this Hon'ble Court in W.P.(MD).No.2789 of 2019, praying to consider the review petition dated 17.12.2018 as early as possible with reference to the issuance of the copy of the proceedings dated 07.08.2014.

8. It is seen from the type set of papers, *vide* memorandum dated 07.08.2014, Deputy Inspector General, Dindigul range has passed an order, wherein it has been stated that the punishment of compulsory retirement from service is reviewed and returned. This Court *vide* order dated 12.02.2019, in WP(MD).No.2289 of 2019 observed that “the information sought by the writ petitioner herein has been given. Hence, nothing further survives for further adjudication in this writ petition and stands closed.”



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9. It is settled proposition, the acquittal of the accused in a criminal case does not debar employer from proceeding in the exercise of disciplinary jurisdiction. The Hon'ble Supreme Court of India's judgment reported in 2022 Live Law (SC) 304, The State of Karnataka & Anr. Vs. Umesh, wherein it has been held as follows:-

“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 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 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.”

10. The writ petitioner was participated in the department proceedings. He was chosen to file the writ petition in WP(MD).No. 2789/2019, praying to consider the review petition dated 12.12.2018 to expedite the same and that writ petition was closed on 12.12.2019. The department enquiry was conducted in accordance with law. The



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disciplinary authority imposed the punishment of compulsory retirement from service on 16.06.2014, after lapse of more than four (4) years, the writ petition has been initiated, to challenge the punishment. At this juncture, it is relevant to refer the judgment of the Hon'ble Supreme Court in [2012 (9) SCC 610] in the case of **Vijaya Kumar Kaul Vs.**

Union of India held as follows:-

“27. ...It becomes an obligation to take into consideration the balance of justice in entertaining the petition or declining it on the ground of delay and laches. It is a matter of great significance that at one point of time equity that existed in favour of one melts into total insignificance and paves the path of extinction with the passage of time.”

It is also pertinent to mention that neither has it been pleaded nor is it apparent from the material on record that the Respondent was unable to approach the court-of-law in time on account of any social or financial disability. Had such been the case, he ought to have availed free legal aid and should have ventilated his grievances in a timely manner.”

11. It is brought to the notice of this Court, that the letter submitted by the writ petitioner dated 04.05.2016, requested to disburse the pensionary benefits. It is also brought to the notice of this Court, the proceedings 05.04.2017 issued by the Principal Accountant General to



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the writ petitioner, regarding the pensionary benefits, were extended the writ petitioner. Hence, there is no merit in this writ petition and the same is liable to be dismissed. In the result, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is also closed.

07.02.2025

NCC : Yes/No

Index : Yes/No

Internet : Yes

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M.JOTHIRAMAN, J.

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and
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