



W.P.(MD)No.6712 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.04.2025

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THE HON'BLE MR.JUSTICE M.JOTHIRAMAN

W.P.(MD)No.6712 of 2019

S.Sureshbabu

... Petitioner

Vs.

1.The Inspector General of Police,
I/C Deputy Inspector General of Police,
Armed Police, Trichy.

2.The Commandant,
TSP VI Battalion, Madurai.

3.The Director General of Police,
State of Tamil Nadu,
Chennai-600 004.

... Respondents

(R3 is impleaded vide Court order dated 12.03.2025 in WMP.(MD)No. 4773 of 2025 in W.P.(MD)No.6712 of 2019.)

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the proceedings of the second respondent made in PR.No.54 of 2016 dated 03.11.2017 and consequential appeal order passed by the first respondent made in C.No.A2/Appeal-36/2018 dated 04.12.2018 and the consequential order passed by the third respondent in R.C.No. 436987/AP.IV(2)/2021 dated 27.04.2012 and quash the same and direct the respondents to reinstate the petitioner in service within the period that may be stipulated by this Court.



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(Prayer amended vide Court order dated 12.03.2025 in WMP.(MD)No. 4775 of 2025 in WP.(MD)No.6712 of 2019)

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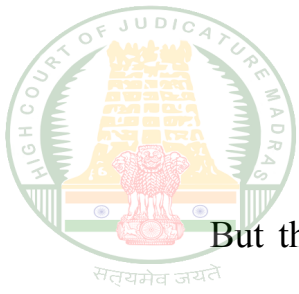
For Petitioner : Mr.K.Govindarajan,
for M/s.M.Maria Vinolia

For Respondents : Mr.K.R.Badurus Zaman,
Government Advocate.

ORDER

Under assail is the order dated 03.11.2017 passed by the Commandant, TSP VI Battalion, Madurai and the order dated 04.12.2018 passed by the Inspector General of Police and consequential order dated 27.04.2012 passed by the Director General of Police imposing punishment of removal from service.

2.The case of the petitioner is that he was appointed in Tamil Nadu Special Police Youth Brigadier in Tamil Nadu Police Department on 13.02.2014. He worked in Paravakottai Police Station, Thiruvarur District. He was promoted as Constable II Grade and underwent training at Thanjore, Police Recruitment School on 25.02.2016. At the time of training, his father met with an accident and he wanted to see his father.



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But the second respondent has not granted leave and instructed him to continue the training. Hence, he left the training camp without any instruction or any previous sanction. Since he left the camp without any instruction, he got scared and mentally depressed. He was admitted in J.M.H Clininc A centre for Mental Health Care for health care from 26.03.2016 to 26.03.2017. The second respondent issued charge memo dated 19.07.2017. As he left the training camp without any permission or instruction and absent for more than 21 days, the second respondent vide order dated 21.04.2016 has passed an order of Vitoduthal. As per order, he has to present before the second respondent within 60 days. But without knowing these details, the petitioner underwent medication and did not appear before the second respondent. The second respondent as per Section 3(b) of the Tamil Nadu Police Subordinate Service (Discipline & Appeal) Rules, 1955, initiated disciplinary action and charge memo was issued on 19.07.2016. He had attended oral enquiry on 21.09.2017, 25.09.2017, 02.10.2017 and 09.10.2017 and also made his submissions. After the enquiry, the second respondent passed an order of removal from service vide his order dated 07.11.2017. He sent representation to the first respondent. Thereafter, he preferred a writ petition in W.P.(MD)No.12303 of 2018 and this Court by its order dated



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11.06.2018 directed the respondents to consider the appeal petition submitted by the petitioner. He has submitted appeal petition on 23.10.2018 as per order of this Court before the first respondent. The appeal also rejected without proper enquiry. Hence, this petition.

3.The learned counsel appearing for the petitioner would submit that the petitioner left the training camp is not willful nor wanton, but only due to act of the superiors who denied leave for the petitioner to look after his father, who met with a grave accident is arbitrary and illegal. He would submit that rejection of appeal for the same reason previously expressed for the earlier *suo motu* appeal is highly arbitrary and illegal. To strengthen his contention, he has relied upon the judgment of the Hon'ble Supreme Court reported in AIR 2009 SC 2458 in a case of Jagdish Singh Vs Punjab Engineering College & Others to show that the proportionality of punishment and logical reasoning emanating from legal findings. He would submit that the petitioner left the training camp without any previous sanction only in order to see his father to assist him for treatment and he had good track record from the date of joining of service.

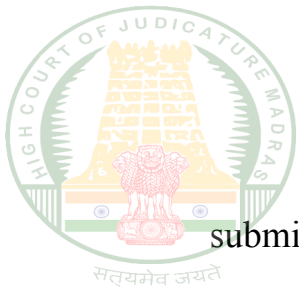


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4.Further, the learned counsel appearing for the petitioner would submit that the punishment imposed by the disciplinary authority is not proportionate to the gravity of the charges levelled and proved against the petitioner. He would submit that he was absented for more than 21 days due to sudden ill-health of his father and hence, he prayed for lessor punishment.

5.The learned counsel appearing for the petitioner also would submit that since he left the camp without any instructions, he got scared and mentally depressed, while thinking about his job and his future. Therefore, he was admitted in J.M.H.Clinic A Centre for Mental Health Care and underwent medication from 26.03.2016 to 26.03.2017. Therefore, within the prescribed time, he could not preferred an appeal or submit his explanation.

6.The learned Additional Government Pleader appearing for the respondents would submit that the petitioner has not requested any leave or permission to see his father while on training and his allegation of denial of leave is on after thought. He has not mentioned about the denial of the leave requisition in his explanation dated 09.10.2017



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submitted before the second respondent. He would submit that the petitioner has not participated in the disciplinary proceedings and sufficient opportunity were given to him to defend his case. He would submit that leaving training camp without getting prior permission from higher officials is a serious misconduct and such charge being proved against the petitioner, the disciplinary authority has chosen to imposing major punishment of removal from service. He would submit that the first respondent has passed a speaking order and rejected the appeal in accordance with law. There is no reason to interfere with the order impugned.

7.This Court has considered the submissions made on either side and perused the records.

8.It is seen from the typed-set of papers that initially the petitioner was worked as Tamil Nadu Special Police Youth Brigadier in Tamil Nadu Police Department. Vide order dated 12.02.2026, he was appointed as Constable Grade II in Tamil Nadu Special Police wherein it has been stated that the petitioner has to go six months training and he has to complete the probation period with the continuing period of two

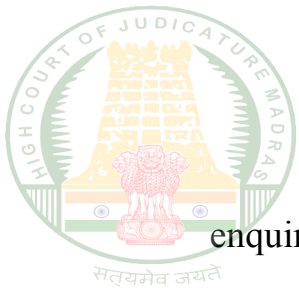


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years and report undergone training at Temporary Police Recruit School,

Thanjavur. During the course of training period, the petitioner has absented for training beyond 21 days from 14.03.2016 and hence, he was treated as deserter, as per the Police Standing Order No.95(Volume-I) vide Battalion Order dated 21.04.2016 by the second respondent. The petitioner was directed to appear before the second respondent within 60 days from the date of desertion to consider him to take back for training. The same was acknowledged by the petitioner on 07.05.2016. The petitioner has failed to appear before the second respondent, even after a lapse of 60 days. Hence, the desertion was confirmed vide Battalion order dated 21.06.2016 and the same was acknowledged to the petitioner on 02.07.2016.

9.Subsequently, the petitioner was issued with charge under Rule 3(b) of the Tamil Nadu Police Subordinate Service (Discipline & Appeal) Rules 1955 vide charge memo dated 26.09.2016. On 27.06.2017, the petitioner submitted representation to the Additional Director General of Police. On 31.07.2017, the petitioner submitted his explanation. On 01.09.2017, the second respondent appointed an enquiry officer to conduct disciplinary enquiry. On 10.10.2017, the



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enquiry officer submitted a report stating that charges levelled against the petitioner stands proved. On 03.11.2017, the second respondent imposed punishment of removal from service. The petitioner filed a writ petition in W.P.(MD)No.12303 of 2018 challenging the punishment imposed by the second respondent. Vide order dated 11.06.2018, the said writ petition was disposed of by giving liberty to the petitioner to file an appeal. On 24.10.2018 the petitioner filed an appeal before the Inspector General of Police, ie., first respondent. On 04.12.2018, the first respondent rejected the appeal. Thereafter, the present writ petition filed to challenge the order dated 04.12.2018 passed by the first respondent. On 27.04.2022 the Director General of Police rejected the mercy petition submitted by the writ petitioner on 25.11.2021. Thereafter, amendment petition filed to amend the prayer and thereby, the order of punishment dated 03.11.2017 passed by the second respondent, dismissal of appeal by the first respondent dated 04.12.2018 and consequential rejection of mercy petition by the Director General of Police dated 27.04.2022 are challenged in this writ petition.

10.It is pertinent to mention that the Court can interfere with the decision of the disciplinary authority only when the Court is satisfied



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that the punishment imposed by the disciplinary authority is shockingly disproportionate to the gravity of the charges levelled and proved against the delinquent employee and not otherwise. It is seen from the records that the petitioner was dealt with charge under Rule 3B for having deserted the training, he was imposed with punishment of removal from service by the second respondent vide order dated 03.11.2017 and the same was served on the petitioner on 26.11.2017. As per the Tamil Nadu Police Subordinate Service (Discipline and Appeal) Rules, appeal petition should be submitted before the appellate authority, within one month from the date of receipt of the order. But the petitioner, has not submitted any appeal, within the time limit. Since no appeal has been preferred by the petitioner, the second respondent sent a file for *suo motu* review. The first respondent considered the same and passed an order that the punishment of removal from service is appropriate, vide order dated 13.03.2018. It is seen from the records that the petitioner has not requested any leave or permission to see his father while on training and he has not mentioned about the denial of leave request by the second respondent in his explanation dated 09.10.2017 and subsequent representations also.



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11.The petitioner has submitted mercy petition dated 25.11.2021 to the third respondent requesting to cancel the punishment and reinstate the petitioner in the post of Grade II Police Constable. The said mercy petition has been rejected vide order dated 27.04.2022.

12.The act of the petitioner leaving training camp without getting prior permission from higher officials is a misconduct. He has not requested leave or permission to see his father. The Disciplinary Authority found that lethargic attitude is not accepted from the person, who is under training in a discipline force and punishment impose on the petitioner was in proportionate to the delinquency. An ample opportunity was given to the petitioner before passing final orders.

13.At this juncture, it is pertinent to mention that the Hon'ble Supreme Court of India, in a judgment reported in *Aironline 2020 SC 795* in a case of *State Of Rajasthan vs Heem Singh* wherein it has been held that “the verdict of the criminal trial did not conclude the disciplinary enquiry. The disciplinary enquiry was not governed by proof beyond reasonable doubt or by the rules of evidence which governed the



criminal trial”. It is relevant to refer the judgment of the Hon'ble

Supreme Court of India in a case of ***Union of India & Ors Vs.***

P.Gunasekaran wherein laid down preponderance of probabilities for exercising of judicial review. The Hon'ble Supreme Court held as follows:-

12.Despite the well-settled position, it is painfully disturbing to note that the High Court has acted as an appellate authority in the disciplinary proceedings, re-appreciating even the evidence before the enquiry officer. The finding on Charge no. I was accepted by the disciplinary authority and was also endorsed by the Central Administrative Tribunal. In disciplinary proceedings, the High Court is not and cannot act as a second court of first appeal. The High Court, in exercise of its powers under Article 226/227 of the Constitution of India, shall not venture into re- appreciation of the evidence. The High Court can only see whether:

- a. the enquiry is held by a competent authority;*
- b. the enquiry is held according to the procedure prescribed in that behalf;*
- c. there is violation of the principles of natural justice in conducting the proceedings;*
- d. the authorities have disabled themselves from reaching a fair conclusion by some considerations extraneous to the evidence and merits of the case;*



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e. the authorities have allowed themselves to be influenced by irrelevant or extraneous considerations;

f. the conclusion, on the very face of it, is so wholly arbitrary and capricious that no reasonable person could ever have arrived at such conclusion;

g. the disciplinary authority had erroneously failed to admit the admissible and material evidence;

h. the disciplinary authority had erroneously admitted inadmissible evidence which influenced the finding;

i. the finding of fact is based on no evidence.

13. Under Article 226/227 of the Constitution of India, the High Court shall not:

(i) re-appreciate the evidence;

(ii) interfere with the conclusions in the enquiry, in case the same has been conducted in accordance with law;

(iii) go into the adequacy of the evidence;

(iv) go into the reliability of the evidence;

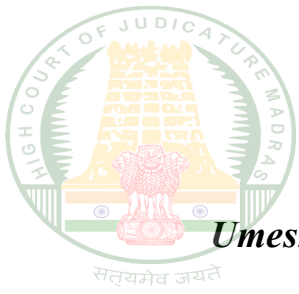
(v) interfere, if there be some legal evidence on which findings can be based.

(vi) correct the error of fact however grave it may appear to be;

(vii) go into the proportionality of punishment unless it shocks its conscience.

14. It is also refer the judgement of the Hon'ble Supreme Court in

2022 Livelaw (SC) 304** in a case of **State of Karnataka & Anr. Vs.



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Umesh wherein it has been stated as follows:-

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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 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.

15. By keeping in mind on the above tests, in the instant case on hand, none of the above tests for attracting to interference of order impugned. The enquiry was conducted in accordance with the principles of natural justice. The findings of the enquiry officer and the disciplinary authority are substantiated with reference to the evidence which was adduced during the enquiry. It is settled law that the acquittal by a criminal Court does not preclude a departmental enquiry against the delinquent officer. The object of a Departmental enquiry is to find out



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whether the delinquent is guilty of misconduct under the conduct rules for the purpose of determining whether he should be continued in service. It is seen from the records that an enquiry was conducted in adherence to the statutory provisions and principles of natural justice. The charges are specific, definite and giving details of the incident, which formed the basis of charges. The punishment imposed is proportionate to the gravity of the misconduct. There is no reason to direct the disciplinary authority or the appellate authority to re-consider the penalty imposed. There is no merits in this writ petition and the same is liable to be dismissed.

16.In the result, this writ petition is dismissed. No costs.

NCC : Yes / No
Index : Yes / No
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M.JOTHIRAMAN, J.

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