



W.P(md)No.26280 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated:05.11.2025

CORAM

THE HONOURABLE Mr.JUSTICE C.KUMARAPPAN

WP(MD)No.26280 of 2019
and
W.M.P(MD)No.22684 of 2019

P.Sivakumar

... Petitioner

Vs.

1.The Director of Medical Education,
Kilpakam Chennai-10.

2.The Dean,
Madurai Medical College,
Madurai.

3.The Dean,
Theni Medical College,
Theni District.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the order dated 28.12.2016 issued by the second respondent in Na.Ka.No.11649/Ne 2/2/16 and consequential confirmation order issued by the first respondent in the Appeal proceedings in Na.Ka.No.33831/CM B 2/3/2014 dated 03.09.2019 and quash the same and consequently direct the respondents to refund the increment amount payable to the petitioner along with arrears and interest within the time stipulated by this Court.



WEB COPY



W.P(md)No.26280 of 2019

For Petitioners : Mr.S.Thangaraj
For R1 to R3 : Mr.J.Ashok
Additional Government Pleader

ORDER

The present writ petition has been filed challenging the impugned order passed by the disciplinary authority, on 28.12.2016 and the appellate authority on 03.09.2019, in and by which, the petitioner was imposed with the punishment of withholding of increment with cumulative effect.

2.Heard Mr.S.Thangaraj, learned counsel appearing for the petitioner and Mr.J.Ashok, learned Additional Government Pleader appearing for the respondents.

3.The learned counsel for the petitioner would submit that the petitioner had a matrimonial dispute with his wife viz., Kalpana, and that she had filed a criminal complaint against him under Sections 498(A) and 406 of IPC., before the All Women Police Station, Thallakulam, Madurai. Subsequently, the case was taken on file in C.C.No.450 of 2014 before the Judicial Magistrate(Mahila Court), Madurai, wherein the learned Magistrate has ultimately found that the charges have not been proved and acquitted the petitioner from all the charges. The learned counsel would further submit



W.P(md)No.26280 of 2019

that in spite of acquittal of criminal cases, the disciplinary authority, based on FIR, had framed charges against the petitioner. It is the further submission of the petitioner's counsel that the other two charges viz., running a Testing lab under the name and style of Jayaneethi Euro Lab by the petitioner in the name of his wife, and running a similar lap by the petitioner in the name of his friend one Saravanaraj. The learned counsel would further submit that no witness was examined and without there being any evidence, the disciplinary authority has arrived at a conclusion that the charges 2 and 3 have been proved against the petitioner. Such finding is based upon the surmise and conjuncture. The learned counsel for the petitioner would also submit that without considering the acquittal, the appellate authority confirmed the order of the disciplinary authority on 03.09.2019. It is the specific submission of the learned counsel for the petitioner that the punishment imposed against him is unconscionably disproportionate as it would affect his pensionary benefit. Hence, prayed to interfere with the impugned orders.

4.The said contention was stoutly objected by the learned Additional Government Pleader and would contend that under the power of judicial review, interference by this Court should only be in exceptional circumstances, that too when the finding of the disciplinary authority is perverse, or when the disciplinary authority did not follow the principles of



W.P(md)No.26280 of 2019

natural justice or when the punishment imposed against the petitioner is unconscionably disproportionate. The learned Additional Government Pleader would further submit that, there are sufficient evidence to prove the charges against the petitioner and only based upon the available materials, the disciplinary authority has arrived at a conclusion that all the charges have been proved. Therefore, there are no ground to interfere with the punishment imposed by the disciplinary authority and hence, prayed to dismiss the writ petition.

5.Before we delve into merits of the matter, it is appropriate to analyse the legal position in regard to the power of Judicial Review. In ***B.C.Chaturvedi Vs. Union of India*** reported in (1995) 6 SCC 749, the Hon'ble Supreme Court has held as follows. The relevant paragraphs are paragraphs 12 & 18 and the same read as follows:-

“12. Judicial review is not an appeal from a decision but a review of the manner in which the decision is made. Power of judicial review is meant to ensure that the individual receives fair treatment and not to ensure that the conclusion which the authority reaches is necessarily correct in the eye of the court. When an inquiry is conducted on charges of misconduct by a public servant, the Court/Tribunal is concerned to determine whether the inquiry was held by a competent officer or whether rules of natural justice are complied with. Whether the findings or conclusions are based on



W.P(md)No.26280 of 2019

*some evidence, the authority entrusted with the power to hold inquiry has jurisdiction, power and authority to reach a finding of fact or conclusion. But that finding must be based on some evidence. Neither the technical rules of Evidence Act nor of proof of fact or evidence as defined therein, apply to disciplinary proceeding. When the authority accepts that evidence and conclusion receives support therefrom, the disciplinary authority is entitled to hold that the delinquent officer is guilty of the charge. **The Court/Tribunal in its power of judicial review does not act as appellate authority to reappreciate the evidence and to arrive at its own independent findings on the evidence. The Court/Tribunal may interfere where the authority held the proceedings against the delinquent officer in a manner inconsistent with the rules of natural justice or in violation of statutory rules prescribing the mode of inquiry or where the conclusion or finding reached by the disciplinary authority is based on no evidence. If the conclusion or finding be such as no reasonable person would have ever reached, the Court/Tribunal may interfere with the conclusion or the finding, and mould the relief so as to make it appropriate to the facts of each case.***

13.

14.

15.

16.

17.

18. *A review of the above legal position would establish that the disciplinary authority, and on appeal the appellate authority, being fact-finding authorities have exclusive power to consider the evidence with a view to maintain discipline. They are invested with the discretion to impose appropriate punishment keeping in view the magnitude or gravity of the misconduct. **The High Court/Tribunal,***



W.P(md)No.26280 of 2019

while exercising the power of judicial review, cannot normally substitute its own conclusion on penalty and impose some other penalty. If the punishment imposed by the disciplinary authority or the appellate authority shocks the conscience of the High Court/Tribunal, it would appropriately mould the relief, either directing the disciplinary/appellate authority to reconsider the penalty imposed, or to shorten the litigation, it may itself, in exceptional and rare cases, impose appropriate punishment with cogent reasons in support thereof.

(Emphasis supplied by this Court)

6. In *Deputy General Manager (Appellate Authority) Vs. Ajai Kumar Srivastava* reported in (2021) 2 SCC 612, the Hon'ble Supreme Court held that if the decision is against the natural justice, then the same can be interfered. The relevant paragraphs are paragraphs 25 & 29 and the same read as follows:-

“25. It is thus settled that the power of judicial review, of the Constitutional Courts, is an evaluation of the decision-making process and not the merits of the decision itself. It is to ensure fairness in treatment and not to ensure fairness of conclusion. The Court/Tribunal may interfere in the proceedings held against the delinquent if it is, in any manner, inconsistent with the Rules of natural justice or in violation of the statutory Rules prescribing the mode of enquiry or where the conclusion or finding reached by the disciplinary authority is based on no evidence. If the conclusion or finding be such as no reasonable person would have ever reached or where the conclusions upon consideration of the evidence reached by the disciplinary authority is perverse or suffers from patent error on the face of record or based on no evidence at all, a writ of certiorari



W.P(md)No.26280 of 2019

could be issued. To sum up, the scope of judicial review cannot be extended to the examination of correctness or reasonableness of a decision of authority as a matter of fact.

26.

27.

28.

29. The Constitutional Court while exercising its jurisdiction of judicial review Under Article 226 or Article 136 of the Constitution would not interfere with the findings of fact arrived at in the departmental enquiry proceedings except in a case of malafides or perversity, i.e., where there is no evidence to support a finding or where a finding is such that no man acting reasonably and with objectivity could have arrived at that findings and so long as there is some evidence to support the conclusion arrived at by the departmental authority, the same has to be sustained.”

7. Through the above judgments, the following principles are emerging:-

(i) Power of Judicial review is not like an appeal. But such power is meant to ensure that the individual receives fair treatment and to ensure the compliance of natural justice.

(ii) The power of judicial review is not like an appellate remedy to substitute its own finding, unless the findings of the Disciplinary Authority and Appellate Authority is perverse and without evidence.

(iii) The High Court had no jurisdiction to review the penalty, unless it is shockingly disproportionate.

(iv) Since because there is a possibility to arrive at yet another finding, cannot be a reason to substitute the finding of the disciplinary Authority.

(v) The judicial review is meant only to ensure fairness



W.P(md)No.26280 of 2019

WEB COPY

in treatment and not to ensure fairness of conclusion.

(vi) While exercising the power of judicial review, so long as there is some evidence to support the conclusion arrived at by the departmental authority, the same has to be sustained.

8.While looking at the facts of the present case, in the backdrop of the above legal position, the interference to the finding of the disciplinary authority is very much limited. Though the petitioner would contend that the lab was owned by his wife as pleaded by him in H.M.O.P.No.375 of 2013, the authority had arrived at a conclusion based upon the pleading that the petitioner has formed a partnership with one Murugavel and started the lab under the name and style of Jayaneethi Euro Lab. In respect of charge No.3, the disciplinary authority has relied the complaint given by the petitioner himself before the Thallakulam Police Station, where he categorically stated that when he was in his lap at about 06.00 p.m., the accused one Murugavel came to the lab and attacked his partner Saravananaraj. By relying upon the averments made in the complaint, the disciplinary authority had arrived at a conclusion that the third charge also been proved against him. Therefore, this Court is of the firm view that there are evidence available against the petitioner. Therefore, the question of interference of such finding is not



W.P(md)No.26280 of 2019

possible in the Judicial Review. More particularly, there are no complaint with regard to the procedure followed by the authority.

9.In the case in hand, the objection submitted before the Family Court, and the petitioner's complaint before the Thallakulam Police Station, would demonstrate the ownership of Jayaneethi Euro Lab at Ashok Nagar and Meenakshi Nagar, Villapuram, Madurai by the petitioner. Therefore, this Court absolutely does not find any infirmity in the finding rendered by the enquiry authority. As rightly contended by the learned counsel for the petitioner at the time of framing of charges, there was a criminal complaint pending against him and further at the time of filing the appeal before the appellate authority, the criminal case ended by acquitting the accused, vide order dated 22.02.2019. Admittedly, such aspect was not considered by the appellate authority.

10.It is pertinent to mention here there the imposition of punishment should be proportionate to the gravity of charge. In the case in hand, though three charges were framed, as against two charges, there are material against the petitioner. But in respect of the first charge, subsequently the petitioner got an acquittal, though the same will in no way nullifying the finding reached by the authority, the same will have some impact in imposing the



W.P(md)No.26280 of 2019

punishment.

WEB COPY

11.In view of such subsequent development, this Court deems it appropriate to give some leniency to the petitioner by altering the punishment alone so as to make the punishment not affecting the pensionary benefits of the petitioner. Accordingly, the restricted punishment of withholding of two increments without cumulative effect is awarded against the petitioner.

12.In view of the above, this Writ Petition is partly allowed as indicated above. No costs. Consequently, connected miscellaneous petition is closed.

05.11.2025

Index : Yes/No
Neutral Citation : Yes/No
Ns



W.P(md)No.26280 of 2019

WEB COPY

- To
- 1.The Director of Medical Education,
Kilpakam Chennai-10.
 - 2.The Dean,
Madurai Medical College,
Madurai.
 - 3.The Dean,
Theni Medical College,
Theni District.

C.KUMARAPPAN, J.



WEB COPY



W.P(md)No.26280 of 2019

Ns

WP(MD)No.26280 of 2019
and
W.M.P(MD)No.22684 of 2019

05.11.2025