

WA(MD)No.255 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 07.02.2025

CORAM :

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

and

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

WA(MD)No.255 of 2025

and

CMP(MD)No.1797 of 2025

- 1.The State of Tamil Nadu,
Rep. By its Secretary to the Government,
Home Department (F1),
Secretariat, Chennai.
- 2.The Director General of Police,
O/o the Director General of Police,
Tamil Nadu
Chennai – 600 004.
- 3.The Commissioner of Police,
O/o, the Commissioner of Police,
Greater Chennai Police, Veppery,
Chennai – 07.
- 4.The Additional Commissioner of Police,
O/o, the Additional Commissioner of Police,
Greater Chennai Police, Veppery,
Chennai-07.
- 5.The Joint Commissioner of Police,
O/o, the Joint Commissioner of Police,
Central Zone, Greater Chennai Police,
Veppery, Chennai -08.



WA(MD)No.255 of 2025

6. The Joint Commissioner of Police,
O/o, the Joint Commissioner of Police,
East Zone, Greater Chennai Police,
Veppery, Chennai -08.

7. The Deputy Commissioner of Police,
O/o, the Deputy Commissioner of Police,
Kilpauk,
Chennai District.

... Appellants

vs.

S.Smile Raj

... Respondent

Prayer : Appeal filed under Clause XV of the Letters Patent, against the order dated 28.03.2024 passed in WP(MD)No.764 of 2024.

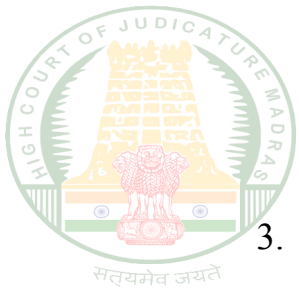
For Appellants : Tmt.D.Farjana Ghouseia
Special Government Pleader
For Respondent : Mr.Mohammed Imran for
M/s.Ajmal Associates

JUDGMENT

(Judgment of the Court was made by **J.NISHA BANU, J.**)

By consent of parties, the writ appeal itself is taken up for final disposal at the admission stage.

2. The present Writ Appeal is directed against the order passed by the Writ Court dated 28.03.2024 passed in WP(MD)No.764 of 2024.



3. The respondent / writ petitioner was initially appointed as a Grade-

II Police Constable on 07.11.1975. He was promoted as Grade-I Constable and further promoted as Head Constable. While he was working as a Head Constable, the 7th appellant vide proceedings dated 01.08.2002, placed him under suspension. In the meanwhile, he attained the age of superannuation on 31.10.2009. While so, the 5th appellant vide proceedings dated 29.10.2009, issued an order by not allowing the respondent to retire from service. In the meanwhile, a final report was filed in the criminal case filed against the respondent and subsequently, the same was taken cognizance in C.C.No.127 of 2011 on the file of the learned Special Court for the cases under Prevention of Corruption Act, Chennai. The said criminal case ended in acquittal vide judgment dated 29.08.2019, on the file of the Special Court for the cases under Prevention of Corruption Act, Chennai. Though the respondent's co-accused were allowed to retire from service vide proceedings dated 28.02.2020, the respondent was neither allowed to retire, nor disbursed with the terminal benefits. Pursuant to his acquittal, the respondent preferred a representation to the appellants, seeking to disburse his retirement benefits on several occasions. While so, sixth respondent issued a charge memo on 18.05.2022, levelling charges as that the charges in the criminal case. Challenging the said suspension dated 01.08.2002 and consequential impugned order of not allowing

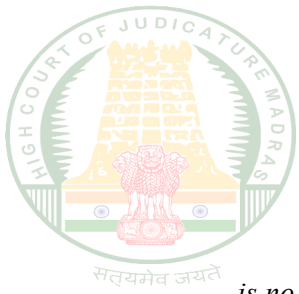


WA(MD)No.255 of 2025

him to retire from service dated 29.10.2009 and the charge memo dated 18.05.2022, the petitioner filed writ petition in W.P(MD)No.7694 of 2024.

4. The Writ Court, by order dated 28.03.2024, relying upon a decision of this Court dated 07.11.2023 made in W.P.No.14937 of 2022, filed by the co-delinquent, quashed the impugned orders and allowed the writ petition, holding that only to harass the respondent / petitioner and to put him in difficulty in old age, the impugned charge memo has been issued after 12 years delay and also issued a direction to the 1st appellant to pass orders by notionally retiring the respondent from service on the date of his actual date of superannuation and disburse all his terminal benefits. As against the said order, this writ appeal is filed by the Police Department.

5. Though the appellants have raised many grounds assailing the order passed by the learned Single Judge, the learned counsel for the respondent relied upon the judgment dated 28.11.2024 passed by the Division Bench in respect of the co-delinquent in W.A.No.3452 of 2024, whereby, the Division Bench concurred with the order passed by the learned Single Judge dated 07.11.2023, made in W.P.No.14937 of 2022. The relevant paragraphs of the said judgment are as follows:



WA(MD)No.255 of 2025

'7. A law has been settled by the Honourable Supreme Court holding that there is no justification in issuing the charge memo after a predominantly long period of time. It has been held protracted disciplinary enquiry against a Government employee also has to be avoided.

8. As far as this case is concerned, the respondent/writ petitioner was aged about 60 years on the date of issuance of the Charge Memo and at the time of institution of writ petition in the year 2022. The suspension order was also issued some time just before the respondent/writ petitioner was to retire from service. It appears that the respondent/writ petitioner was kept in suspension for several months and thereafter, reinstated.

9. We are therefore of the view that there is no justification in issuance of the charge memo belatedly at the fag end of the career of the respondent/writ petitioner delinquent. We do not find any reason to interfere with the well considered decision of the Writ Court in the impugned order passed by the Writ Court. Hence, this Writ Appeal is liable to be dismissed. Accordingly, the same is dismissed."

6. The said judgment is squarely applicable to this case also. In this case, the petitioner reached the age of superannuation on 29.10.2009, but he was not permitted to retire and though the criminal case ended in acquittal in 2019, the appellants had chosen to issue the charge memo in 2022, levelling charges as that of the charges in the criminal case. Though the departmental proceedings and criminal proceedings may proceed simultaneously, the appellants have chosen to issue the charge memo on the same set of allegations in the criminal case, after a lapse of 12 years from the date of superannuation of the respondent. Considering the said aspects, the Writ Court has rightly allowed the writ petition, setting aside the impugned orders before it, which does not call for interference at the hands of this Court.



WA(MD)No.255 of 2025

WEB COPY

7. Accordingly, the Writ Appeal fails and the same is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

(J.N.B, J.) (S.S.Y, J.)
07.02.2025

Index : Yes / No
Neutral Citation : Yes / No
bala

To

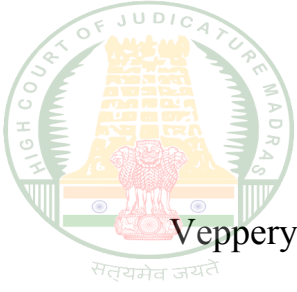
1.The Secretary to the Government,
State of Tamil Nadu,
Home Department (F1),
Secretariat, Chennai.

2.The Director General of Police,
O/o the Director General of Police,
Tamil Nadu
Chennai – 600 004.

3.The Commissioner of Police,
O/o, the Commissioner of Police,
Greater Chennai Police, Veppery,
Chennai – 07.

4.The Additional Commissioner of Police,
O/o, the Additional Commissioner of Police,
Greater Chennai Police, Veppery,
Chennai-07.

5.The Joint Commissioner of Police,
O/o, the Joint Commissioner of Police,
Central Zone, Greater Chennai Police,



WA(MD)No.255 of 2025

Veppery, Chennai -08.

WEB COPY

6.The Joint Commissioner of Police,
O/o, the Joint Commissioner of Police,
East Zone, Greater Chennai Police,
Veppery, Chennai -08.

7.The Deputy Commissioner of Police,
O/o, the Deputy Commissioner of Police,
Kilpauk,
Chennai District.



WEB COPY



WA(MD)No.255 of 2025

J.NISHA BANU, J.
and
S.SRIMATHY, J.

bala

JUDGMENT MADE IN
WA(MD)No.255 of 2025
DATED : 07.02.2025