



WP(MD)No.28249 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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RESERVED ON 14.09.2025	PRONOUNCED ON 24.11.2025
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CORAM:

THE HONOURABLE **MR.JUSTICE K.KUMARESH BABU**

W.P.(MD)No.28249 of 2024

S.Arumai Nayagam

... Petitioner

/vs./

1.The Director General of Police,
Police Chief Office,
Mylapore, Chennai – 600 004.

2.The Director,
Tamilnadu Police Academy,
Oonamancheri, Vandalur,
Chennai – 600 127.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the 1st respondent in Rc.No.03971/AP.4(2)/2023, dated 25.09.2024, served on 15.11.2024 confirming the order passed by the second respondent in his proceedings dated 20.05.2022 and to quash the same and consequently, directing the respondents to reinstate the petitioner with all other benefits within a time frame as may be fixed by this Court.



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For Petitioner : Ms.P.Jessi Jeeva Priya

For Respondents : Mr.F.Deepak Spl. Govt., Pleader

ORDER

This Writ Petition had been filed to call for records relating to the impugned order passed by the 1st respondent dated 25.09.2024, served on 15.11.2024 confirming the order passed by the second respondent in his proceedings dated 20.05.2022 and to quash the same and consequently, directing the respondents to reinstate the petitioner with all other benefits within a time frame.

2. Heard Ms.P.Jessi Jeeva Priya, learned counsel appearing for the petitioner, Mr.F.Deepak, learned Special Government Pleader appearing for the respondents.

3. Ms.P.Jessi Jeeva Priya, learned counsel appearing for the petitioner would submit that the petitioner was appointed as Police Constable on 11.07.2005. He had also participated in the Sub-Inspector selection under the Department quota and got selected and was appointed by order dated 12.02.2016. In the meanwhile, on a complaint made by one women constable alleging that he



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had promised to marry her and cheated her, a charge memo under Rule 3(b) was issued on 22.02.2016. A full-fledged enquiry was conducted by the Additional Deputy Superintendent of Police, Tirunelveli and based upon the statement of witnesses and other documents, an order of further action was drafted by him in his proceedings dated 07.03.2016. In the meantime, the petitioner was relieved from the Tirunelveli District on 08.03.2016 and he had joined the Sub-Inspector training under the respondents on 09.03.2016.

4. A further complaint was made by the very same women constable on 03.09.2016 with the very same allegations along with an FIR in Crime No.18 of 2016 registered on 03.09.2016. The said women constable had attempted to commit suicide on 09.10.2016 and she died on 10.10.2016.

5. A further FIR had been registered against the petitioner in Crime No.175 of 2016 on 11.10.2016 under Section 309 IPC read with Section 174 Cr.P.C. and thereafter, the said FIR had been altered under Section 306 IPC and Section 3(2) (v-a) Schedule Caste and Schedule Tribes (Prevention of Atrocities) Amendment Ordinance, 2014. The learned counsel for the petitioner would submit that the petitioner had not been involved in any offences and has been falsely implicated.



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However, he was suspended by the first respondent by his proceedings dated 14.10.2016 and was also arrested on 17.10.2016 and was released on bail on 17.11.2016.

6. Further, a charge memo has also been issued by the second respondent on 24.07.2017 under Rule 3(b) of the Tamil Nadu Police Subordinate Service (Discipline and Appeal) Rules 1955 for his involvement in the criminal offence. The petitioner had moved this Court in W.P.(MD).No.1098 of 2019, wherein, an interim order has been granted directing the authorities not to pass any final orders. The petitioner had also moved this Court in the criminal O.P., for speedy disposal of the criminal case filed against him, which was also ordered in favour of the petitioner.

7. Thereafter, the Writ Petition filed by the petitioner finally came to be disposed on 21.02.2022, permitting the disciplinary proceedings to be continued and conducted. With the criminal cases pending, the disciplinary proceedings continued and a punishment of dismissal from service was passed against the petitioner on 20.05.2022. Both the criminal cases that was initiated against the petitioner ended in acquittal by the judgment of the Additional District and



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Sessions Court-II, Tirunelveli on 28.04.2023. After the acquittal, the petitioner had made a representations on 05.06.2023 and 06.06.2023 to set aside the order of punishment of removal from service and to reinstate him. As the said representation did not evoke any response, the petitioner had preferred W.P.(MD).No.2065 of 2023, seeking a direction to the first respondent to set aside the order of punishment based upon the judgments of the Criminal Courts.

8. By proceedings dated 25.09.2024, the first respondent had rejected the claim of the petitioner against which the present Writ Petition had been filed. She would submit that the witnesses that were all examined in the disciplinary proceedings, were also witnesses before the Criminal Court and based upon the depositions made by the respective witnesses, the Court has found that the petitioner had not committed the offence as alleged. She would further submit that all the witnesses were official witnesses. The mother of the victim who was the complainant, was not examined during the disciplinary proceedings. She would submit that the first respondent had concluded that the criminal and departmental proceedings are entirely different. Therefore, the acquittal in criminal case cannot be put in favour of the petitioner to set aside the punishment that has been imposed on him.



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9. In that context, she would submit that the Disciplinary Authority had only enquired the witnesses who are not connected with the allegations made against the petitioner and such witnesses were only the Investigating Officers of the criminal offence and on the basis of the said criminal investigation in the criminal case, when the petitioner has been acquitted on the strength of the same witnesses, the order of punishment would also have to fall. She would submit that the list of witnesses given in Annexure-IV are all Officials of the Police Department who are either involved in the criminal investigation or involved in the service of summons of notices.

10. Taking this Court through the Enquiry Officer's Report, she would submit that none of the witnesses had spoken about the delinquent act of petitioner and they were all officials or mahazar witnesses and therefore, the conclusion of the Enquiry Officer on that basis to hold that the petitioner had committed the delinquency is liable to be interfered with.

11. On the other hand, the learned Special Government Pleader would submit that it is a well settled law that the disciplinary proceedings and the criminal proceedings stand on a different footing. Only if the offender is found to



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have been involved beyond any reasonable doubt, he would be charged for the offence that he had committed and would be convicted. On the other hand, in a disciplinary proceedings preponderance of probability alone is essential and based upon the witnesses, the Enquiry Officer had come to a conclusion that the petitioner had committed the delinquency as charged.

12. He would further submit that the question of considering reinstatement after a decision of acquittal or discharge by a competent Criminal Court arises only if the dismissal is based upon the conviction in a Criminal Court but when independently the delinquent had been proceeded with such punishment cannot be set aside just because the petitioner had been acquitted in the criminal case on a subsequent date.

13. He would further submit that the Disciplinary Authority is not bound by the judgment of a Criminal Court, even if the evidence produced in the departmental enquiry is different from that was produced during the criminal trial. That apart, he would submit that the first respondent had considered the claim of the petitioner and had rejected the same which cannot be said to be riddled with



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infirmity for this court to interfere with Article 226 of the Constitution of India

and therefore, prays this Court to dismiss the Writ Petition.

14. I have considered the submissions made by the learned counsels appearing on either side and perused the materials available on record.

15. The petitioner was originally issued with a charge memo for the delinquency on the very same set of facts which after enquiry was recommended to be dropped. Thereafter, the petitioner had also been permitted to join the training after which a further complaint was made against the delinquent based upon a criminal case that had been filed at a later stage. With the criminal case was pending, the petitioner had been imposed with a punishment of dismissal from service, based upon an Enquiry Report holding him to have been involved in such delinquency.

16. A perusal of the Enquiry Report would reveal that there are 12 witnesses that were examined and 9 of the witnesses were all officers belonging to the Police Department who had been involved in the investigation of the criminal case against the petitioner. One other witness was from the hospital and



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two other witnesses were mahazar witnesses. There has been no witness who have been examined to prove the delinquency committed by the petitioner. The witnesses that were examined, were all witnesses who came into the scene after the commission of the delinquent act and no witnesses who had any direct knowledge of the delinquent act have been examined by the Enquiry Officer.

17. Even assuming that the such witnesses had spoken about the delinquency they are all indirect witnesses who came into the scene after the delinquent act has been complained as in the FIR and the investigation have been made. As rightly pointed out by the learned counsel for the petitioner, even to arrive at a theory of preponderance of probability, with such witnesses cannot drive home the same. Further under the impugned order, the first respondent had rejected the claim of the petitioner except to state that the departmental proceedings and criminal proceedings are entirely different and the object of both the proceedings are different. The Authority has not even considered the claims made by the petitioner as to whether there has been an application of mind even to arrive at a conclusion that there has been preponderance of probability while inflicting the major punishment of dismissal of service. Hence, this Court is of the view that the mercy petition disposed by the first respondent has not been made



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by the application of relevant facts to the issue. In view of the same, the impugned order is set aside and remitted back to the first respondent to reconsider the mercy petition filed by the petitioner dated 05.06.2023.

18. In light of the observations, the Writ Petition is partly allowed setting aside the order dated 25.09.2024 of the first respondent and is remitted back to him for fresh consideration. Such exercise shall be done by the first respondent within a period of four (4) weeks from the date of receipt of a copy of this order. However, there shall be no order as to costs.

24.11.2025

Index : Yes / No
Internet : Yes / No
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K.KUMARESH BABU, J.

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Pre-Delivery Order made in
W.P.(MD)No.28249 of 2024

24.11.2025