



WEB COPY



W.P. No.15329 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.02.2026

CORAM:

THE HON'BLE MR. JUSTICE **M. DHANDAPANI**

W.P. No.15329 of 2024 and
WMP.Nos.16653, 16655 of 2024, 47088 of 2025

R.Muthukumar

... Petitioner

Vs

1.THE DIRECTOR GENERAL OF POLICE,
O/O THE DIRECTOR GENERAL, CHENNAI

2.THE DEPUTY INSPECTOR GENERAL OF POLICE,
ARMED POLICE, CHENNAI

3.THE COMMANDANT,
TSP XIII BATTALION, PONAMALLEE, CHENNAI

4.THE ASSISTANT COMMANDANT-III,
TSP XIII BATTALION, PONAMALLEE, CHENNAI ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order passed by the 3rd respondent in Rc. No A4 / PR No.19 / 2021 dated 23.09.2021 and the consequent order passed by the 2nd Respondent in C.No C1/Appeal - 24 / 2021 dated 29.10.2021 and the consequent order passed by the 1st Respondent in Rc. No 009932/ AP. 3 (1) / 2021 dated 23.04.2022 and consequently direct the Respondents to reinstate the petitioner into service with all continuation, service benefits and monetary benefits to the petitioner



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For petitioner : Mr.K.Rahul
for Mr.K.Navaneetha Raja

For Respondents : Mr.R.U.Dinesh Rajkumar,
Additional Government Pleader

ORDER

This Writ Petition has been filed praying to quash the order passed by the 3rd respondent in Rc. No A4 / PR No.19 / 2021 dated 23.09.2021 and the consequent order passed by the 2nd Respondent in C.No C1/Appeal - 24 / 2021 dated 29.10.2021 and the consequent order passed by the 1st Respondent in Rc. No 009932/ AP. 3 (1) / 2021 dated 23.04.2022 and consequently to direct the Respondents to reinstate the petitioner into service with all continuation, service benefits and monetary benefits to the petitioner.

2. The learned counsel appearing for the petitioner would submit that the petitioner was recruited as Grade-II Police Constable on 27.01.2013 and he was discharging unblemished duty as dutiful police officer. While he was in duty in Poonamallee Battalion TANGO-12, the petitioner's child was affected with jaundice and he could not report for duty on 13.04.2021. At the relevant point of time, there was second wave of covid pandemic. He also suffered with ill health, thereby the third respondent passed a preliminary order on 03.05.2021 and treated the petitioner as deserter and further directed the petitioner to appear



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before the third respondent on or before 11.06.2021. On receipt of the same, the petitioner appeared before the third respondent on 19.05.2021 and offered his explanation. The third respondent accepted the explanation and allowed the petitioner to join duty. Thereafter, disciplinary proceedings was initiated by issuing charge memo in PR.No.19/2021 under Rule 3(b) of Tamil Nadu Police Subordinate Service(Discipline & Appeal) Rules on 19.07.2021 and thereafter the fourth respondent was appointed as enquiry officer and the enquiry officer made a minute. Based on the proven minute, the petitioner made further representation. However, the third respondent imposed punishment of removal from service. Aggrieved by the third respondent punishment, the petitioner preferred appeal before the second respondent on 29.09.2021. However, without affording opportunity to the petitioner, the second respondent confirmed the order passed by the third respondent. Again, the petitioner preferred mercy petition before the first respondent. The first respondent dismissed the same on 23.04.2022. Challenging the concurrent findings rendered by the original authority, appellate authority and revisional authority, this writ petition has been filed.

3. The learned counsel appearing for the petitioner would further submit that it is true earlier to this punishment, the petitioner suffered five



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punishments in similar nature. However, the petitioner is aged about 34 years and sending the petitioner from service will affect the petitioner's family and the petitioner has not involved in any criminal case, misconduct or insubordination. It is only unauthorised absence without leave application. However, the punishment of dismissal from service is disproportionate. Accordingly, he prayed for appropriate orders.

4. The learned Additional Government Pleader appearing for the respondents submitted that the Petitioner herein was enlisted as Police Constable Grade II on 18.02.2013. After completion of 7 months institutional training, the Petitioner herein was posted to Tamil Nadu Special Police 8th Battalion, New Delhi and later on transfer he was received in Tamil Nadu Special Police 13th Battalion, Poonamallee on 23.07.2019. While serving in the 13th Battalion, the Petitioner herein deployed for TANGO-12 duty, he unauthorized absent for duty from 13.04.2021 and not reported for duty for more than 21 days. As per Police Standing Order 95(1), deserter order issued to the petitioner in Battalion Order No.206/2021 on 03.05.2021 stating to appear before the 3rd Respondent within 60 days from the date of desertion to explain the reason for the absent. The Petitioner acknowledged the order on 08.05.2021. Even under panic of Covid-19 pandemic, Tamil Nadu Police Department served



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the public unblemished duty, the Petitioner working in this department stating tremendous depression is unacceptable. The Petitioner was dealt with on a Charge memo in PR No.19/2021 u/r 3(b) of Tamil Nadu Police Subordinate Service (Discipline & Appeal) Rules, 1955, dated 19.07.2021. The Petitioner acknowledged the charge memo on 20.07.2021 and submitted his explanation on 27.07.2021. The 4th Respondent was appointed as Oral inquiry Officer on 03.08.2021. The Petitioner herein was given proper intimation about the oral enquiry. He attended the oral enquiry and perused the statements of witnesses recorded during the oral enquiry, but he has not cross examined the witnesses. The Petitioner herein has made baseless and motivated allegations. Perused the statements of Prosecution Witnesses but he has not cross examined the Prosecution Witnesses during the oral enquiry.

5. The learned Additional Government Pleader appearing for the respondents further submitted that the Enquiry Officer conducted a fair and proper enquiry into the allegations against the petitioner and the Petitioner herein was given all reasonable opportunities to defend his case. Based on the statements of Prosecution Witnesses and prosecution exhibits, the Enquiry Officer held the charges against the Petitioner herein as Proved and submitted his Minute dated 19.08.2021. The Enquiry report was served to the petitioner on



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30.08.2021. The Petitioner herein has made baseless and motivated allegations to escape from the clutches of law. The disciplinary authority has called for his further Representation by supplying a copy of the Minute of the Enquiry Officer and awarded the punishment of Removal from service on 23.09.2021. The slip order with a copy of 'F' order was served to the Petitioner herein on 27.09.2021. The Petitioner herein has submitted an appeal representation to the Deputy Inspector General of Police, Armed Police, Chennai and after careful consideration, Deputy Inspector General of Police, Armed Police, Chennai in his Proceedings Rc.No. C1/Appeal-24/2021 dated 29.10.2021, rejected the representation of the Petitioner herein on merit. The Petitioner has submitted a representation to the Director General of Police, Tamil Nadu, Chennai and after careful consideration, the Director General of Police, Chennai in his Proceedings Rc.No. 009932/AP.3(1)/2021 dated 23.04.2022, rejected the representation of the Petitioner herein on merit. He had submitted his Further Representation on Officer on 25.08.2021. 07.09.2021. The petitioner in his further representation has cited his child illness as a reason and has not submitted any medical records. The Disciplinary authority has agreed with the Enquiry Officer's finding and held the charges as Proved and perused the service roll of the petitioner and find out the petitioner had habitual nature of deserting the force and he had already deserted the force 5 times and taking the previous punishment into account, the 3rd Respondent has imposed the punishment of



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"Removal from Service on 23.09.2021. The Petitioner herein has acknowledged the receipt of the Slip order on 27.09.2021. The Petitioner herein has preferred an appeal against the punishment before the Appellate authority. The Appellate authority has also conveyed that the petitioner has the habit of deserted from the force frequently and also did not change his attitude even after the repeated punishments awarded to him and he declined to interfere in the orders of the punishing authority and rejected his appeal petition by an dated 29.10.2021. The Petitioner herein has sent a representation to the Director General of Police, Tamil Nadu, Chennai and after careful consideration, the Director General of Police, Chennai in his Proceedings Rc.No.009932/AP.3(1)/2021 dated 23.04.2022, rejected the representation of the Petitioner herein on merit. The Enquiry Officer has held charges as Proved and drawn proved minute. The Petitioner herein has submitted the further representation on the Proven Minute as called for. The Disciplinary authority has carefully gone through the charge and the Minute with the connected records. He has agreed with the finding of the Enquiry. Hence, he prayed for dismissed of this writ petition.

6. Heard, the learned counsel appearing on either side.



7. The precedents on the issue of interference with the punishment imposed has been oft considered by the Courts and it has been the consistent view of the Courts that it is always within the domain of the disciplinary authority to decide on the punishment to be imposed on the delinquent, which should be proportionate to the act of the delinquent. Only when the punishment is disproportionate and shocking to the conscience, should the courts interfere in the same in exercise of powers under Article 226. In ***Prem Nath Bali – Vs - High Court of Delhi (2015 (16) SCC 415)***, the Supreme Court held as under :-

“20. It is a settled principle of law that once the charges leveled against the delinquent employee are proved then it is for the appointing authority to decide as to what punishment should be imposed on the delinquent employee as per the Rules. The appointing authority, keeping in view the nature and gravity of the charges, findings of the inquiry officer, entire service record of the delinquent employee and all relevant factors relating to the delinquent, exercised its discretion and then imposed the punishment as provided in the Rules.

21. Once such discretion is exercised by the appointing authority in inflicting the punishment (whether minor or major) then the courts are slow to interfere in the quantum of punishment and only in rare and appropriate case substitutes the punishment. Such power is exercised when the court finds that the delinquent employee is able to prove that the punishment inflicted on him is wholly unreasonable,



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arbitrary and disproportionate to the gravity of the proved charges thereby shocking the conscience of the court or when it is found to be in contravention of the Rules. The Court may, in such cases, remit the case to the appointing authority for imposing any other punishment as against what was originally awarded to the delinquent employee by the appointing authority as per the Rules or may substitute the punishment by itself instead of remitting to the appointing authority.”

(Emphasis Supplied)

8. From the ratio laid down by the Apex Court above, it is crystal clear that the power to interfere with the punishment should be exercised only if the delinquent employee is able to prove that the punishment inflicted on him is wholly unreasonable, arbitrary and disproportionate to the gravity of the proved charges and, thereby, shocking the conscience of the Court or if it is in contravention of the Rules.

9. Keeping in mind the ratio laid down by the Apex Court aforesaid, this Court has to look into the allegations raised against the petitioner in the enquiry. The allegation in the present case against the petitioner relates to unauthorized absence of the petitioner. In the enquiry, the allegation has been held to be proved. Nevertheless, it can safely be concluded that the said



allegation is not akin to allegation of corruption, insubordination or moral turpitude, which calls for severe/extreme punishment, such as termination of the employee from service. In the present case, the allegation only is of unauthorized absence, which could not be said to be a grave allegation warranting imposition of punishment of termination from service. The punishment inflicted on the petitioner should be commensurate with the delinquency committed by the petitioner and applying the ratio laid down in *Prem Nath Bali case (supra)* it can safely be held that the punishment is disproportionate with the delinquency and necessarily the same requires to be interfered with by imposing a lesser punishment, which is proportionate to the delinquency committed.

10. Accordingly, the impugned orders are set aside. This Court directs the petitioner not to repeat the same unauthorised absence in future and follow the leave rules while he is in duty. Accordingly, the punishment imposed on the petitioner is modified to one of “stoppage of increment for a period of two years without cumulative effect”. Further, during the period of the above unauthorised absence, the petitioner was not in employment. Therefore, he is not entitled for any backwages. However, he is entitled for continuity of service for the purpose of claiming service benefits.



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11. With the above modification in punishment, this writ petition stands allowed, with the aforesaid direction. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

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Index : Yes/No
Speaking/Non-speaking order
Neutral Citation : Yes/No
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M. DHANDAPANI, J.

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To

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