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WA Nos. 117 of 2026 and 3382 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27-01-2026

CORAM

THE HON'BLE MR JUSTICE R. SURESH KUMAR

AND

THE HON'BLE MR.JUSTICE P. DHANABAL

WA Nos. 117 of 2026 and 3382 of 2025

1. The Superintendent of police,
Nagapattinam District,
Nagapattinam.
Now at Mayiladuthurai District,
Mayliaduthurai.
2. The Deputy Inspector General of Police
Thanjavur Range,
Thanjavur

..Appellant(s) common
in both Writ Appeals

Vs

K.Selvaraj
S/o. Kandaswamy,
Formerly Head Constable 1468,
Vaipedu Police Station,
Vedaranyam Sub-Division,
Nagapattinam District.

..Respondent(s) common
I in both Writ Appeals



COMMON PRAYER: These Writ Appeals have been filed under Clause 15 of the Letters Patent praying to set aside the order dated 30.10.2024 made in W.P.No.9303 of 2020 and W.P. No.2751 of 2020 and to allow this Writ Appeal and thus render justice.

For Appellant(s): Mr. P. Kumaresan, Additional Advocate General
Assisted by MR. S. Yashwanth,
Additional Government Pleader.

For Respondent(s): Mr.S.R.Sankareshwaran.

COMMON JUDGMENT

(Judgment of the Court was delivered by P.Dhanabal J.)

These Writ Appeals have been preferred as against the common order passed by the Writ Court in W.P. No.9303 of 2020 and W.P. No.2751 of 2020 dated 30.10.2024. The respondent herein, before the Writ Court, filed Writ petitions to issue Writ of Certiorarified Mandamus calling for the records of the 1st respondent in connection with the impugned order passed by him in Ref. No.K1/PR No.25/2018 dated 25.10.2019 and the records of the 2nd respondent dated 14.01.2020 in Na. Ka No.B2/AP.55/2019 and to quash the same and to direct the 2nd respondent to dispose the appeal pending with him within a stipulated time fixed by this Court. The Writ Court allowed the Writ petitions and quashed the impugned Show Cause Notice and directed the 1st respondent to reinstate the Writ petitioner with continuity of service with backwages.



Aggrieved by the said order, the present Writ appeals have been preferred.

2. The short facts necessary to dispose of this Writ appeals are as follows:-

The respondent herein, who is the Writ petitioner, was initially appointed as Grade-II Police Constable on 01.11.1995 and thereafter, he was upgraded as Head Constable in the year 2011. While the Writ petitioner was in service, at Voimedu Police Station, Nagapattinam District, he availed casual leave on 24.06.2018 and went to his native place and engaged one minor Sanjay as 'driver' for an illegal transportation of 2 units of sand, which was kept in the backside of his house, in a Tipper attached to a Tractor bearing Registration No.TN51 DU 0672, which was registered in the name of the wife of the Writ petitioner. Thereafter, a criminal case was registered against the Writ petitioner in Thiruvengadu Police Station in Cr. No.134 of 2018 and departmental action was also initiated under Rule 3(b) of Tamil Nadu Police Service (Discipline and Appeal) Rules 1955. The Disciplinary Authority after following the procedures, awarded punishment of 'Compulsory retirement' from service through an order dated 06.11.2019. As against the said punishment, the Writ petitioner preferred a statutory appeal before the Deputy Inspector General of Police, Thanjavur Range i.e., the 2nd appellant herein and the same is pending. The appellate authority issued a Show Cause Notice to the Writ petitioner in Rc. No.B.2/AP 55/2019 for enhancement of punishment and the same was acknowledged by



the Writ petitioner on 29.01.2020. Thereafter, the Writ petitioner filed the Writ petitions to quash the Show Cause Notice and to direct the Appellate Authority to dispose the appeal within a time stipulated by this Court and the same was allowed on 30.10.2024 by directing the respondents in the Writ petitions to reinstate the Writ petitioner into service and to pay backwages. Aggrieved by the said order, the present Writ appeals have been preferred by the appellants department.

3. The learned Additional Advocate General appearing for the appellants would submit that the respondent / Writ petitioner was appointed as Grade-II Police Constable and thereafter, he was upgraded as Head Constable in the year 2011. While he was serving at Voimedu Police Station, availed casual leave and went to his native place and engaged in an illegal transportation of sand, thereby an FIR has been registered as against the respondent and disciplinary proceedings were initiated and punishment of 'compulsory retirement from service' was awarded and the same was challenged through an appeal before the 2nd appellant. The 2nd appellant, after verifying the records, issued a Show Cause Notice against the respondent that why the punishment should not be enhanced and the same was challenged before this Court through Writ petition in W.P. No.2751 of 2020. Simultaneously the Writ petitioner filed W.P. No.9303 of 2020 seeking for a direction to dispose the disciplinary appeal pending with the Appellate Authority. The Writ Court allowed both the



petitions and ordered for reinstatement. There is no prayer sought for in respect of the appeal which is pending before the 2nd appellant, by challenging the punishment awarded through disciplinary proceedings and the said punishment was challenged by a statutory appeal before the 2nd appellant, where the 2nd appellant issued Show Cause Notice. The prayer sought for in the Writ petition is to quash the said show cause notice and to direct the 2nd appellant to expedite the appeal proceedings. However, the Writ Court erroneously set aside the Show Cause Notice as well as the punishment awarded to him and ordered for reinstatement. When the appeal is pending before the 2nd appellant for consideration, the punishment awarded by the disciplinary authority has been set aside on the ground that the criminal case was ended with acquittal. The Show Cause Notice was issued on the delinquent officer by invoking the Sua Moto powers of review, which is well within the power of appellate authority. Therefore, the order passed by the Writ Court is liable to be set aside.

4. The learned counsel appearing for the respondent would submit that the respondent was working as Head Constable and a false case has been registered against the respondent and based on the above said false case, the disciplinary proceedings were also initiated. The said criminal case was ended with acquittal. However, the Disciplinary Authority awarded punishment of compulsory retirement and the same was challenged by way of statutory appeal before the Appellate Authority ie. 2nd appellant herein and the 2nd appellant,



without considering the case, issued Show Cause Notice for enhancement of punishment even without hearing the appellant in the pending appeal and the same has been challenged through the Writ petition in W.P. No.2751 of 2020.

Apart from that, the respondent who is the petitioner in the Writ petition sought for a direction to dispose the appeal within the stipulated time. The Writ Court after considering the records and submissions made by both sides, came to a conclusion that the criminal case ended in acquittal and the charges and witnesses in both the proceedings are identical and once the criminal Court acquitted the accused, the respondent has to be absolved from the charges and therefore, allowed the Writ petitions and quashed the Show Cause Notice and directed the 1st appellant to reinstate the respondent into service. Therefore, the Writ Court passed the order based on the judgments of the Hon'ble Supreme Court. Therefore, the present Writ appeal is liable to be dismissed.

5. Heard both sides and perused the materials available on record.

6. In this case, there is no dispute that as against the respondent, who is the petitioner in the Writ petition, a criminal case had been registered in Thiruvengadu Police Station Cr. No.134 of 2018 and simultaneously departmental action was also initiated. In the disciplinary proceedings, he was awarded punishment of 'compulsory retirement from service' and the same has been challenged before the 2nd appellant herein, who is the appellate authority. While pending appeal, the delinquent has filed a Writ petition in W.P. No.9303



of 2020 for a direction to dispose the appeal within a stipulated time fixed by the Court. Further, during pending appeal, the 2nd appellant issued a Show Cause Notice for enhancement of punishment and the same has been challenged through the Writ petition in W.P No.2751 of 2020. While considering the writ petitions, the Writ Court allowed both the writ petitions, quashed the Show Cause Notice and directed to the 1st appellant to reinstate the writ petitioner / respondent into service and set aside the punishment on the ground that the criminal case was ended in acquittal.

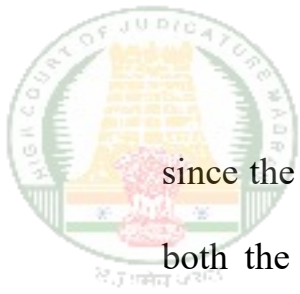
7. In this case, the prayer sought for in the Writ petition No.9303 of 2020 impugned in this Writ appeal in W.A. No.117 of 2026 is to dispose the disciplinary appeal pending before the 2nd respondent within the period fixed by the Court. The Writ petitioner has also preferred an appeal before the 2nd appellant authority against the said punishment awarded by the 1st respondent. In turn, the Appellate Authority issued a Show Cause Notice for enhancement of punishment and the same is under challenge through a Writ petition in W.P. No.2751 of 2020. While so, the Writ Court proceeded on merits of the punishment awarded through disciplinary proceedings, where the disciplinary proceedings are not under challenge through the Writ petition. The disciplinary appeal is pending before the Appellate Authority. While so, the Writ Court ought not to have discussed about the punishment awarded to the Writ petitioner through the disciplinary proceedings.



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8. As far as the Show Cause Notice is concerned, the Writ Court ought to have considered the Show Cause Notice, whether it is legally sustainable or not, but instead of discussing about the Show Cause Notice, the Writ Court went into the merits of the disciplinary proceedings, which is under challenge before the Appellate Authority and not before the Writ Court. Therefore, the Writ Court ought not to have passed orders in respect of the punishment awarded in the disciplinary proceedings. However, since the appeal is pending before the Appellate Authority, the Appellate Authority has to consider the appeal. Even though the 2nd appellant / Appellate Authority has suomoto powers of review, in the case on hand, he has not invoked the suomoto powers of review and based on the appeal filed by the respondent, he issued Show Cause Notice even without hearing the appeal. Therefore, the Authority need not have issued Show Cause Notice based on the appeal filed by the respondent / delinquent and without hearing the appellant in the appeal.

9. The powers of review can be exercised on the suomoto proceedings and in the appeal filed by the appellant, without hearing the appellant / Writ petitioner, the appellate authority had issued Show Cause Notice at the initial stage of appeal. Therefore, the show cause notice issued by the 2nd appellant is liable to be quashed. Though the Writ Court quashed the impugned Show Cause Notice on other grounds, the said order need not be interfered. However,



since the appeal is pending before the Appellate Authority and if the charges in both the criminal case as well as the disciplinary proceedings, are identical, once the delinquent was acquitted in the said criminal case, in the disciplinary proceedings, the Authority can exercise powers and absolve the respondent from the charges as per the judgment of Hon'ble Supreme Court as relied by the Writ Court. Since the appeal is pending with the Appellate Authority, he can decide the matter on merits. In view of the same, the order passed by the Writ Court in respect of setting aside the punishment ordered by the disciplinary authority, is set aside. In the event the appellate authority coming to a conclusion that the charges are proved, considering the nature of charges, the major punishment of compulsory retirement is too harsh, thereby the Appellate Authority can impose any of the punishment prescribed under rules except the 'removal from service and compulsory retirement'. The main prayer in the W.P. No2751 of 2020 is to dispose the appeal within time, therefore, the Appellate Authority is directed to dispose of the appeal within **2 (two) months from the date of receipt of a copy of this order.** As far as the continuity of service, backwages and other benefits are concerned, it is for the respondent to pass appropriate orders as per rules.

10. With the above said observations and directions, these Writ appeals are ***disposed of.***

(R.S.K.,J.) (P.D.B.,J.)
27-01-2026



Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
MJS

WA Nos. 117 of 2026 and 3382 of 2



**R.SURESH KUMAR, J.
AND
P.DHANABAL, J.**

MJS

**WA No. 117 of 2026
and
W.A. No.3382 of 2025**



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27-01-2026