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W.A.(MD)NO.601 OF 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.02.2026

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

AND

THE HON'BLE MRS.JUSTICE R.KALAIMATHI

W.A.(MD)No.601 of 2021

R.Senthilnathan

... Petitioner / Appellant

Vs.

1. The Director General of Police,
Tamil Nadu, Chennai -4.

2. The Additional Director General of Police(Law& Order),
Tamil Nadu, Chennai.

3. The Commissioner of Police,
Tirunelveli City.

... Respondents

Prayer: Writ appeal filed under Clause 15 of the Letters Patent, to call for the entire records pertaining to the order passed by this Court in W.P.(MD)No.12969 of 2014 vide order dated 01.02.2021 and set aside the same.

For Appellant : Mr.Sarath Chandran

For Respondents : Mr.S.S.Madhavan,
Additional Government Pleader.

* * *

**J U D G M E N T****(Order of the Court was delivered by G.R.SWAMINATHAN, J.)**

The unsuccessful writ petitioner is on appeal before us. The appellant joined service as Sub Inspector of Police in the year 1999. In March 2006, when he was working at Palayamkottai police station in Tirunelveli City, a police team was formed to investigate Crime No.331 of 2006. The said team set out on their investigation on 24.03.2006. They returned only on 27.03.2006. It appears that the team stayed in a private lodge. The team comprised one police head constable by name Gnana Sekara Pandian and police constables by name Sivaraman and Krishnasamy. Sivaraman as well as Gnana Sekara Pandian had consumed liquor. Sivaraman who was in a drunken condition, outraged the modesty of a woman constable by name P. This enraged Gnana Sekara Pandian who assaulted Sivaraman. Sivaraman suffered injury and was rushed to hospital and he died subsequently. In this regard, Crime No.349 of 2006 was registered on the file of Palayamkottai police station for the offence under Section 174 Cr.P.C. and subsequently the same was altered into Sections 302 and 201 IPC. The appellant was charged only for the offence under Section 201 IPC. The case was tried by the Additional



Sessions Judge, Tirunelveli in S.C.No.23 of 2007. The appellant as well as the other accused were acquitted by the trial Court. The judgment of acquittal has become final.

2.Parallely, charge memo dated 06.10.2006 was issued. It contained the following five articles of charge. They read as follows:-

“(i) That the petitioner was guilty of committing the murder of a police constable by name Sivaraman, while both of them had gone as a team to apprehend the accused in Crime No.327 of 2006 on the file of Palayamkottai police station for the offence under Section 302 IPC.

(ii) That by his conduct in consuming liquor in the terrace of a complex by name Parvathi Sankar Complex at Vannarpet belonging to a private person and behaved in a manner causing harm to the reputation of the Department;

(iii) That he indulged in a quarrel with other police constable over the conduct and character of another woman police constable by name Prabha;

(iv) That he along with another police constable by name Gnanasekhara Pandian caused the death of Head Constable;



(v) That he was guilty of suppressing the incident and not informing the same to the Higher Officials.”

3.The petitioner offered his explanation. An enquiry officer was appointed. The enquiry officer rendered a finding that charges 1 to 4 were not established and Charge No.5 was proved. After getting the petitioner's further representation, the disciplinary authority namely, the Commissioner of Police, Tirunelveli City imposed the punishment of reduction in time scale of pay by two stages for one year and it directed postponing his future increments vide order dated 03.11.2008. The Director General of Police, Chennai exercised his power of *suo motu* revision. After getting the appellant's explanation on 22.03.2009, he imposed the punishment of compulsory retirement vide order dated 07.07.2009. This was put to challenge by the appellant in W.P.No.14758 of 2009. The writ petition was allowed vide order dated 28.03.2013 in the following terms:-

“11. Paragraph No.6 which happens to be the last paragraph of the impugned order reads as follows:-



“6. I have carefully gone through the P.R.file, SCN explanation of the delinquent and other connected records. In the Departmental action, it is not necessary to prove charges beyond reasonable doubt. According to the theory of preponderance of probability the charges are proved through prosecution witnesses of PW1. Tmt.Premalatha, W/o.Late Sivaraman, PW.2 Tr.Velu, F/o.Late Sivaraman, PW19 Tr.Natarajan, Inspector of Police, PW20 Tr.C.Sambasivam, Assistant Commissioner of Police. The charge are very serious. The punishment of “Reduction in time scale of pay by two stages for one year and it shall not operate to postpone his future increments” awarded to the delinquent is too lenient when compared with the nature of delinquencies. Hence, I enhance the punishment into that of compulsory retirement from service.”

12. In other words, after having chosen to disagree only on the quantum of penalty, the second respondent appears to have proceeded on the footing as though the charges were already held proved. If respondent Nos.1 and 2 had decided to take a different view, even with regard to the findings on the charges, the show cause notice should have been completely different from what it



was in this case. Such a show cause notice should have contained all the reasons for taking a different view even on the findings. But the show cause notice confined itself only to the quantum of penalty. Therefore, the second respondent who eventually passed the final order on a suo motu review initiated by the first respondent, appears to have gone completely out of the track and misunderstood the nature of the show cause notice. Hence, the impugned order suffers from non-application of mind.

13. Once it is concluded that the final order suffers from non-application of mind, the only alternative is to remit the matter back to the first respondent.

14. In view of the above, the writ petition is allowed, the impugned order is set aside and the matter is remitted back to the first respondent. The first respondent shall reconsider the matter with reference to the show cause notice dated 18.02.2009 with specific reference only to the charge held proved and on the reasons submitted by the petitioner and dispose of the same, within a period of four weeks from the date of receipt of a copy of this order. No costs."



Pursuant to the order of remand, the Director General of Police, Chennai heard the matter and vide proceedings dated 12.10.2013 once again imposed the very same punishment of compulsory retirement. Challenging the same, the appellant filed W.P.(MD)No. 12969 of 2014. The learned single Judge vide order dated 01.02.2021, dismissed the writ petition. Assailing the same this writ appeal has been filed.

4. The learned counsel appearing for the appellant reiterated all the contentions set out in the grounds of appeal and called upon this Court to set aside the order passed by the learned single Judge and grant relief as prayed for. He added that the appellant would be satisfied if continuity of service was allowed and he would not claim for back wages.

5.Per contra, the learned Additional Government Pleader submitted that the order of the learned single Judge does not call for interference. He pointed out that Gnana Sekara Pandian who was involved in the very same occurrence was also imposed with the penalty of compulsory retirement. When the said order was interfered



with by the learned Single Judge in W.P.No.5803 of 2017 vide order dated 26.10.2018, the Hon'ble Division Bench vide order dated 02.03.2021 allowed the writ appeal filed by the department in W.A.No.2763 of 2019 and restored the punishment of compulsory retirement. He called upon this Court to take note of the order of the Hon'ble Division Bench and dismiss the writ appeal.

6. We carefully considered the rival contentions and went through the materials on record.

7. At the very outset, we must observe that the appellant's case cannot be compared to that of Gnana Sekara Pandian, Head Constable 538. Admittedly, it was Gnana Sekara Pandian whose assault on Sivaraman that led to his death. On the other hand, the only charge found proved against the appellant was that he did not inform his superior officers about the said occurrence. The failure to inform is no doubt a misconduct and the finding of guilt on that ground has become final.



8.The only question that calls for consideration is whether the punishment of compulsory retirement is proportionate.

9.The order of compulsory retirement was passed as early as on 07.07.2009 and it was set aside. The appellant could not be reinstated in service because the matter was remitted to the file of the authority. Vide order dated 12.10.2013, the Director General of Police once again imposed the punishment of compulsory retirement. We are now in 2026. The appellant has given up the claim for payment of backwages for a period of seventeen long years. This in our view would constitute more than sufficient punishment for the misconduct attributed to the appellant. Secondly, the appellant had been acquitted in the criminal case. Thirdly, the occurrence, had already attracted the attention of the authorities. It is not as if the appellant had tried to screen the occurrence. More than anything else, when a colleague had been seriously wounded, the appellant's focus would be on rushing him to hospital. It is not as if because of the appellant's omission, public interest had suffered.



10. The Hon'ble Supreme Court in the decision reported in

WEB COPY (2003) 8 SCC 9 (*Dev Singh Vs. Punjab Tourism Development*

Corporation Ltd.,) had held that if the punishment imposed by the disciplinary authority or the appellate authority shocks the conscience of the Court and is totally disproportionate to the misconduct proved against the delinquent, then the Court, in order to shorten the litigation, may make an exception in rare cases and impose appropriate punishment with cogent reasons. We, therefore, set aside the order impugned in the writ petition as well as the order passed by the single Judge. The appellant shall be reinstated in service forthwith. He will be entitled to continuity of service. The question of paying backwages for the period from the date of punishment till the date of reinstatement does not arise at all. However, this period will be counted for all other purposes including pension. The reinstatement shall be made within a period of eight weeks from the date of receipt of a copy of this order.



WEB COPY 11.This writ appeal stands allowed. No costs.

(G.R.SWAMINATHAN, J.) & (R.KALAIMATHI, J.)
20th February 2026

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

PMU/skm

To:

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