



W.A.(MD) No.1190 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.02.2026

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

and

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

W.A.(MD)No.1190 of 2024

and

C.M.P.(MD)No.9158 of 2024

- 1.The Secretary,
Home Secretary to Government,
Secretariat,
Chennai.
 - 2.The Director General of Police,
Tamil Nadu,
Chennai.
 - 3.The Deputy Inspector General of Police,
Dindigul Range,
Dindigul.
 - 4.The Superintendent of Police,
Theni District.
- ... Appellants



W.A.(MD) No.1190 of 2024

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-VS-

M.Nazir Hussain

... Respondent

PRAYER: Writ Appeal filed under Clause XV of the Letters Patent Act, praying to praying to allow this Writ Appeal and set aside the order passed by the learned Single Judge in W.P.(MD)No.9971 of 2023 dated 26.09.2023.

For Appellants : Mr.S.R.A.Ramachandran,
Additional Government Pleader
For Respondent : Mr.G.Karthik

JUDGMENT

[Judgment of the Court was made by DR.G.JAYACHANDRAN, J.]

It is a case of compulsory retirement of a Grade – I Constable, who was found guilty in the departmental proceedings. His appeal and revision also were dismissed and the order of compulsory retirement imposed by the disciplinary authority is confirmed. Challenging the same, a Writ Petition filed seeking Certiorarified Mandamus. The prayer in the Writ Petition is as below:

“To issue a Writ of Certiorarified Mandamus, to call for the records pursuant to the order in R.C.No.068004/AP.



W.A.(MD) No.1190 of 2024

2(3)/2018 dated 08.08.2018 of 2nd respondent confirming the order passed in Rc.No.AP25/A2/2017 by 3rd respondent dated 04.07.2017 through which the order of 4th respondent made in PR-08/F1/2016 dated 30.03.2017 was confirmed and quash the same and reinstate the petitioner with all attendant benefits.”

2.The learned Judge, who heard the Writ Petition had thought fit that the punishment imposed is shockingly disproportionate and therefore, quashed the impugned proceedings and remanded back to the disciplinary authority to initiate fresh proceedings and impose a proportionate punishment other than compulsory retirement and dismissal from the service.

3.The department being aggrieved, had challenged the order of the learned Single Judge on the following grounds:

1) The writ petitioner had committed offences of robbery and a misconduct unbecoming of a uniformed service personnel. Not less than compulsory retirement could be a proportionate punishment for the said misconduct. Therefore, the finding of the learned Single Judge that the punishment is shockingly disproportionate needs to be interfered.

2) The charge of involving in the snatching of cell phone at knife point along his co-accused having been found proved in the departmental



W.A.(MD) No.1190 of 2024

enquiry, the learned Single Judge ought not to have remanded back the matter for the disciplinary authority to initiate fresh proceedings. Such an event will occur only if there is gross violation of procedure.

4. Contrary to the above submission, learned Counsel appearing for the writ petitioner / respondent submitted that the finding of the authority as well as appellate authority and the revisional authority without proper discussion of the facts and bereft of reasoning needs to be set aside. The learned Counsel for the respondent would particularly submit that the criminal trial which was pending at the time of passing the impugned order of compulsory retirement and on the date of dismissal of the revision petition ultimately ended in acquittal. The change in circumstances warrants fresh consideration of the facts. Therefore, there is no error in the order of the learned Single Judge in remanding the matter back for fresh consideration.

5. We gave our anxious consideration to the rival submissions and the records placed before us.

6. The first respondent herein been appointed as Grade-II Constable on 09.06.1993. On the date of occurrence, he was working as Grade – I PC



W.A.(MD) No.1190 of 2024

at Thenkarai Police Station, Periyakulam. The criminal case in Crime No.1005 of 2015 registered by the Dindigul Town North Police Station for offences under Section 387 and 506 (ii) of IPC has emanated on the complaint given by one Ajay of Madurai alleging that two persons waylaid him on the 'Wee' hours of 27.08.2015 and one of them wield the knife and extorted his cell phone. The other person was standing in support of the person who extorted the cell phone. In the course of investigation, police has identified the person who wield the knife and extorted the cell phone was one Deepan @ Nari and his associate was the respondent herein.

7.After issuing charge memo, enquiry been duly conducted. The first respondent was found guilty of the grave charges of misconduct and was placed under compulsory retirement. Pending enquiry, he was initially placed under suspension on 10.09.2015 which was revoked on 21.03.2016. The disciplinary proceedings concluded on 30.01.2017 and after receiving his explanation for the finding of the enquiry officer, the disciplinary authority has passed the order of compulsory retirement on 30.03.2017. His appeal to the Deputy Inspector General of Police, Dindigul was dismissed on 04.07.2017 and further revision to Director General of Police was disposed of on 08.08.2018. When the date on which revision was dismissed, the criminal proceedings in C.C.No.467 of 2018 on the file of



W.A.(MD) No.1190 of 2024

Chief Judicial Magistrate, Dindigul was pending. Later, the criminal case ended in acquittal, since the de-facto complainant Ajay turned hostile.

8.Nonetheless in the enquiry proceedings, we find that the said Ajay has participated and the first respondent has given an opportunity to cross examining him. Though several questions were put to the witnesses, the presence of the first respondent along with the co-accused Deepan @ Nari at the time of alleged occurrence never been denied by the delinquent first respondent. Had the offence been committed by any other government employee, the finding of the learned Single Judge that the capital punishment of compulsory retirement is shockingly disproportionate should have been well taken. Whereas, the delinquent being a police personnel committing offence of extortion that too in uniform as deposed by the de-facto complainant, we are of the view that the minimum punishment which could have been imposed in this case is only compulsory retirement. Therefore, we are of the view that the learned Single Judge's order to conduct fresh enquiry by the disciplinary authority warrants interference.

9.Accordingly, we allow this Writ Appeal by setting aside the order passed by the learned Single Judge and confirming the order passed by the fourth respondent. The appellant shall disburse the retirement benefits of



W.A.(MD) No.1190 of 2024

the respondent as expeditiously as possible, preferably within a period of sixty [60] days from today. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

[G.J., J.] & [K.K.R.K., J.]

19.02.2026

NCC : Yes / No

Index : Yes / No

Internet: Yes / No

MR



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W.A.(MD) No.1190 of 2024

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