

U.Shanmugham Vs. the Deputy Inspector General of Central Prison

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Court : Chennai

Decided On : Jul-04-2012

Judge : Vinod K.Sharma, J.

Acts : [Constitution of India](#) - Articles 226

Appeal No. : W.P.No.4546 of 2007 (O.A.No.2645 of 2001)

Appellant : U.Shanmugham

Respondent : The Deputy Inspector General of Central Prison

Advocate for Def. : Mr.R.Vijayakhumar, Adv.

Advocate for Pet/Ap. : Mr.P.Solomon Francis, Adv

Judgement :

Common Prayer: Writ petitions are filed under Article 226 of [Constitution of India](#) for the issuance of a writ of Certiorari, to quash the impugned orders of the 1st respondent made in No.3582/Moo.Yoo/2000 dt 18.12.2000, confirming the orders of the 2nd respondent made in No.13919/Po.3/99 dtd.12.7.2000 and made in No.5792/Po.3/2000 dtd.1.8.2000 and consequential reinstatement of the petitioner with all back wages since 26.11.1987 till date.

ORDER

1. The petitioner has invoked the extraordinary equitable jurisdiction of this Court under Article 226 of the [Constitution of India](#), with a prayer for issuance of a writ in the nature of Certiorari, to quash the order No.3582/Moo.Yoo/2000 dated 18.12.2000, dismissing the petitioner from service as also the Order Nos.13919/Po.3/99 dtd.12.7.2000 and 5792/Po.3/2000 dated 01.08.2000, confirming the order of his dismissal in appeal.
2. The petitioner was appointed as Male Nursing Assistant in the Jail Department in July 1981. The petitioner was suspended on 26.11.1987 on the ground possessing 25gms of Ganja, which was attempted to be smuggled to the jail for use by the prisoners.
3. A criminal case was registered against the petitioner, which resulted in acquittal for want of report from the Laboratory, and on account of non appearance of Investigating Officer.
4. The petitioner was also dealt with departmentally also. The Enquiry Officer found the charge of possessing Ganja as proved on appreciation of evidence.
5. However, taking lenient view, the petitioner was imposed minor punishment of deferring increment for two years without cumulative effect. It is the contention of learned counsel for the petitioner, that though the petitioner was only imposed minor punishment, still he was not paid full salary from the date of his suspension till the date of reinstatement.
6. This contention cannot be taken note of, as it is not the case set up by petitioner, that he has not been paid any thing over and above the subsistence allowance. However, the learned Additional Government Pleader has pointed out that in fact the period of suspension was regularized, and all the dues for the period when petitioner remained suspended was paid to him on 11.06.2001.
7. The petitioner was subsequently issued another charge sheet on 13.05.2000, on the ground of attempting to smuggle four packets of cigarettes for use by the prisoners.

8. On denial by petitioner, an enquiry was conducted, and the charges against petitioner were proved. The competent authority keeping in view the past conduct and proved charges, imposed punishment of dismissal, from service. The order stood confirmed in appeal as also the revision.

9. Learned counsel for the petitioner challenged the impugned order, firstly on the ground that the punishment awarded is disproportionate to the proved charges, as the allegations against petitioner were only of carrying of four packets of cigarettes, for use by the prisoners, which were in fact not handed over to any of the prisoners

10. On consideration, I find no force in this contention. This contention could be taken note of only in case this would have been the first offence of petitioner.

11. It is admitted, that previously, the petitioner was found in possession of the banned substance Ganja, which he had tried to smuggle for use by the prisoners. When, keeping in view the fact, that it was the first misconduct, the petitioner was dealt with leniently, though the charge was very serious. It was due to the compassion shown by respondents, that petitioner committed second misconduct of smuggling cigarette packets for use by the prisoners.

12. The charges against the petitioner, being serious in nature, and when seen in background of his past conduct, the order of dismissal cannot be said to be disproportionate to the proved charge, which may call for any interference by this Court in exercise of writ jurisdiction. No other point was urged to challenge the order of punishment

13. No merits. Dismissed.

14. No costs.

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