

W.A. (MD) No.118 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

RESERVED ON : 05.02.2024

PRONOUNCED ON : 14.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.A(MD).No.118 of 2024

- 1.The Director General
Railway Protection Force
Railway Board
Rail Bhavan
New Delhi
- 2.The Inspector General Cum Principal
Chief Security Commissioner
Railway Protection Special Force
Railway Board, Rail Bhavan
New Delhi
- 3.The Deputy Inspector General Cum
Chief Security Commissioner
Railway Protection Special Force
Railway Board, Rail Bhavan
New Delhi
- 4.The Commanding Officer
5th Battalion, Railway Protection Special Force
Kimber Garden, Khajamalai
Tiruchirappalli



W.A. (MD) No.118 of 2024

5. The Assistant Commissioner

'D' Coy, 5th Battalion

Railway Protection Special Force

Kimber Garden, Khajamalai

Tiruchirappalli

6. The Inspector

5th Battalion, Railway Protection Special Force

Kimber Garden, Khajamalai

Tiruchirappalli

...Appellants/Respondents

Vs

Narender Chauhan

Constable/05SF1528135

5th Battalion, Railway Protection Special Force

Kimber Garden, Khajamalai

Tiruchirappalli

...Respondent/Petitioner

Prayer: Writ Appeal filed under Clause 15 of Letters Patent, to allow the appeal and set aside the order of this Court made in W.P(MD).No.65 of 2021 dated 20.06.2023.

For Appellants : Mr.K.Govindarajan
Deputy Solicitor General of India

For Respondent : Mr.R..Kavin Prasath
For Mr.K.Mavoa Jacob



W.A. (MD) No.118 of 2024

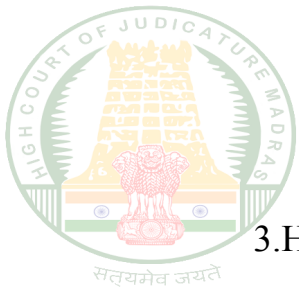
JUDGMENT

(Made by **R.VIJAYAKUMAR,J.**)

WEB COPY

The respondents in the writ petition are the appellants. The writ petition was filed by a Constable of a Railway Protection Special Force challenging his order of removal from service for misconduct of putting “thumbs up” sign for a message that was circulated in the official Whatsapp group. The writ Court after considering the submission made on either side, arrived at a finding that the writ petitioner had erroneously shared the “thumbs up” symbol and proceeded to direct the authorities to reinstate the petitioner without backwages. This order is under challenge in the writ appeal.

2. According to the learned Deputy Solicitor General appearing for the appellants, the writ petitioner being a member of Uniformed Service, he is expected to maintain high standard of discipline. A message relating to the brutal murder of a superior officer was circulated in the official Whatsapp group. On seeing the said message, the petitioner has put up 'thumbs up' message which is clearly a mark of celebrity and therefore, it is a misconduct. This would, not only send a wrong message to other personnel, but also affect the moral of the officers.



W.A. (MD) No.118 of 2024

3.He had further contended that the learned Single Judge ought not to have interfered with the quantum of punishment which clearly in consonance with the misconduct. The offer made by the petitioner to forego his backwages cannot be considered to be a mitigating factor for ordering reinstatement. Hence, he prayed for allowing the writ appeal.

4.Per contra, the learned counsel appearing for the respondent/writ petitioner had contended that by mistake the writ petitioner had put up “thumbs up” sign for the message. This signal was put up by him erroneously with no intention to affect the moral of the Uniformed Force or denigrating the higher official who was brutally killed. For the said mistake, a disproportionate punishment of removal from service has been ordered. He had further contended that the writ Court had rightly appreciated the facts and circumstances of the case and has ordered reinstatement without backwages. Hence, he prayed for dismissal of the writ appeal.

5.We have carefully considered the submissions made on either side and perused the materials available on record.



W.A. (MD) No.118 of 2024

WEB COPY 6. The petitioner is a Constable in Railway Protection Special Force from the year 2015 onwards. On 25.02.2018, an Assistant Commandant was brutally killed by another Constable in Mehalaya. This news was shared in the official Whatsapp group of Constable, D Coy 5th Battalion, Trichy. The writ petitioner on seeing the said message has put up thumbs up symbol. Sharing of the said symbol was construed by the Railway Protection Special Force as a moral support to the murder accused and he was issued with a charge memo.

7. After conducting enquiry, the disciplinary authority had ordered for removal from service. The Appellate Authority as well as the Revisional Authority have concurred with the disciplinary authority. Challenging the same, the writ petition has been filed. The writ petitioner has offered an explanation that by mistake he had put up thumbs up symbol for the said message and he never had any intention to approve the said brutal murder or affect the moral of the officers.

8. The messages that was shared in the official Whatsapp group is about the brutal murder of an Assistant Commandant by a Constable in Mehalaya. The petitioner who was not so conversant with the Whatsapp, had shared an



W.A. (MD) No.118 of 2024

erroneous emoji of thumbs up signal. The said thumbs up signal could also be construed to be an alternative for the word “OK”. Therefore, sharing of the said symbol could never be considered to be celebrating of the brutal murder, but is it only an acknowledgement of the fact that the petitioner had seen the said message. Therefore, the explanation offered by the writ petitioner is believable especially in the light of the fact that no other allegations have been made against him. The petitioner does not have any bad antecedents.

9. In the light of the above said facts, we are of the opinion that the writ Court was right in setting aside the order of removal from service and directing reinstatement in service of the writ petitioner without backwages.

10. In view of the above said facts, there are no merits in the writ appeal. The writ appeal stands dismissed. No costs.

(D.K.K.J.,)

(R.V.J.,)

14.02.2024

Index :yes
Internet :yes
NCC :Yes/No
msa

6/7



WEB COPY



W.A. (MD) No.118 of 2024

**D.KRISHNAKUMAR, J.
AND
R.VIJAYAKUMAR, J.**

msa

Pre-delivery Judgment made in

W.A(MD).No.118 of 2024

14.02.2024