



W.P.(MD)No.8583 of 2019

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 26.04.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P(MD).No.8583 of 2019

and

W.M.P(MD).Nos.6701 & 6702 of 2016

M.Muthukumaran

... Petitioner

Vs.

1.The State of Tamil Nadu,
Rep by its Additional Chief Secretary to Government,
Home (Police VI) Department,
Secretariat, Chennai 600 009.

2.The Director General of Police,
O/o The Director General of Police,
Tamil Nadu, Chennai 600 004.

3.The Deputy Inspector General of Police,
O/o.The Deputy Inspector General of Police,
Madurai Range, Madurai.

4.The Superintendent of Police,
O/o. The Superintendent of Police,
Madurai District, Madurai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari calling for the records relating to the impugned Government order passed by the first respondent vide impugned G.O.(D).No.991



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Home (Police VI) Department dated 24.08.2018 confirming the impugned order passed by the third respondent vide his proceedings C.No:A2(2)/6525/AP 97/09 dated 30.06.2009 confirming the punishment order passed by the fourth respondent vide his proceedings C.No.A2(2)/6525/AP 97/09 dated 30.06.2009 confirming the punishment order passed by the fourth respondent vide his proceedings C.No.F1/PR.100/07, u/r 3(b) dated 18.02.2009 and quash the same.

For Petitioner :Mr.H.Mohammed Imran for
M/s.Ajmal Associates
For Respondents :Mr.P.Thambidurai
Government Advocate

ORDER

This writ petition has been filed challenging the impugned Government Order passed by the first respondent vide G.O.(D).No.991 Home (Police VI) Department dated 24.08.2018, confirming the impugned order passed by the third respondent vide his proceedings C.No.A2(2)/6525/AP 97/09 dated 30.06.2009, confirming the punishment order passed by the fourth respondent vide his proceedings C.No.F1/PR.100/07, u/r 3(b) dated 18.02.2009.

2. Originally, the petitioner was appointed as Grade II Police Constable on 16.06.1993 in Tamil Nadu Uniform Service Recruitment Board, then promoted as



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Grade-I, then as Head Constable. A charge memo dated 09.09.2005 was issued alleging on 09.09.2005 at 12.00 p.m., during working hours, the petitioner stole diesel from the police vehicle bearing Registration No.TN-59-G-0298. The petitioner stole the diesel from one Mr.Sheikbakathur, the owner of the Gori Work Shop, which is Government approved workshop. After receiving the charge memo, the petitioner submitted a detailed explanation stating that he went to the workshop for water service, after obtaining memo No.91/BW/SIMT MD/D5 dated 08.09.2005 from the Motor Transport Branch in Armed Reserve, Madurai. There were many vehicles for service on that day and hence, the petitioner took his vehicle to the workshop on the next day i.e., 09.09.2005, after obtaining permission from the Inspector of Police, All Women Police Station, Tirupparankundram.

3. The contention of the petitioner is that there was a leakage in the diesel tube of the vehicle. After carrying out the repairs and service, the concerned work shop issued a bill bearing Bill No.1303 for Rs.225/- and the same was handed over to the said workshop owner. The petitioner denied the allegation and submitted an explanation. An enquiry officer was appointed and the petitioner has participated in the enquiry. The enquiry officer filed a report holding that the



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charges are proved. The petitioner has submitted a detailed explanation for the same on 25.01.2009. After receipt of the explanation, the respondents imposed a punishment vide order dated 18.02.2009 under Rule 3(b) for postponement of increment for three years with cumulative effect. Aggrieved over the same, the petitioner preferred an appeal, wherein, the punishment was modified into the postponement of increment for two years without cumulative effect. Aggrieved over the same, the present writ petition came to be filed.

4. The respondents filed counter affidavit stating that several police personnel spotted the petitioner stealing the diesel from the vehicle. Therefore, the higher authorities inspected and checked all the vehicles along with the police personnel, who was stealing the vehicle. Then the respondents appointed six persons who were screening the said work shop and the said persons have videographed all the vehicles. According to the respondents, they have videographed the petitioner's vehicle namely TN-59-G-0298. Based on the videograph evidence, the petitioner was imposed punishment. The petitioner was also granted an opportunity of hearing before the enquiry officer. Therefore, there is no violation of principles of natural justice. The appellate authority has reduced the punishment and therefore the respondents claim that the punishment imposed



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is legally valid and it is only lesser punishment and prayed to dismiss the present writ petition.

5. Heard Mr.H.Mohammed Imran for M/s.Ajmal Associates the Learned Counsel appearing for the petitioner and Mr.P.Thambidurai, the Learned Government Advocate appearing for the respondents and perused the materials available on record.

6. The learned counsel appearing for the petitioner relied on the cross examination, wherein, the enquiry officer has specifically put a question to the petitioner that on seeing the video evidence, the petitioner was directed to reply. The petitioner submitted that his vehicle was not shown in the video, hence he has nothing to explain. The relevant portion is extracted herein:

விசாரணை அதிகாரியின் குறுக்கு விசாரணை:

வீடியோ படம் உங்கள் முன்பு காட்டப்படுகிறது பார்த்துக்கொள்ளவும்.

கேள்வி: நீங்கள் இப்போது பார்த்த வீடியோவில் TN-59-G-0640 & TN-59-G-0590 ஆகிய இரண்டு வாகனங்களின் மேற்படி வீடியோவில் பதிவு செய்யப்பட்டதை காண்பிக்கப்பட்டது. இதுபற்றி உங்களது அபிப்பிராயம் என்ன?

பதில்: என்னுடைய வாகனம் இன்று நீங்கள் காண்பித்த வீடியோவில் பதிவாகவில்லை வேறு எந்த அபிப்பிராயமும் இல்லை.



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7. On perusing the evidence, it is seen the videograph indicates the particulars of the vehicles as TN-59-G-0640 & TN-59-G-0590. In the charge memo, the vehicle number is stated as TN-59-G-0298 and this said vehicle was not shown in the video at all. But the respondents also relied on the evidence of P.W.3, wherein it states that the petitioner's vehicle TN-59-G-0298 came to the shop. The relevant portion is extracted herein:

அரசாட்சி 3 திரு.பழனிச்சாமி என்பவரை விசாரித்தபோது தான் செக்கானூரணி சார்பதிவாளர் ஆக பணிபுரிவதாகவும் மதுரை மாவட்ட பதிவாளர் அவர்களின் உத்தரவுப்படி ஊழல்தடுப்புப் பிரிவு துணைக்கண்காணிப்பாளர் அவர்களின் ஆலோசனைப்படியும் 09.09.2005-ம் தேதி 09.00 மணியிலிருந்து மதுரை கோரிப்பாளையம் செனாய்நகர் ஜெகஜீவன்ராம் தெருவிலுள்ள கோரி ஆட்டோமெபைல் ஓர்க்ஷாப்பில் அரசு வாகனங்களில் டீசல் திருடி எடுப்பது சம்பந்தமாக ரகசியமாக கண்காணித்து வருவதற்காக அந்த ஓர்க்ஷாப்பின் பக்கத்திலுள்ள கட்டிடத்தில் குழுவினருடன் கண்காணித்து வந்ததாகவும் அப்போது TN-59-G-0590 டெம்போ வேன் 11.25 மணிக்கு உள்ளே வந்து டீசலை எடுத்து கொடுத்துவிட்டு 11.30 மணிக்கு வெளியே போனது அதனை தொடர்ந்து காவல்துறை வாகனம் TN-59-G-0298 ஜீப் சுமார் 12.00 மணிக்கு மேற்படி ஓர்க்ஷாப்பின் உள்ளே வந்து டீசலை எடுத்துக்கொடுத்துவிட்டு வெளியே போனதாகவும் மேற்படி சம்பவங்களை இது சம்பந்தமாக லஞ்ச ஒழிப்புத்துறை உதவி ஆய்வாளர் திரு.காமராஜ் சம்பவத்தை வீடியோ படம் எடுத்ததாகவும் இது தொடர்பாக ஊழல் தடுப்பு பிரிவு துணைக்கண்காணிப்பாளர் திடீர் இணை அறிக்கை ஒன்றை தயார் செய்து அதில் தானும் தன்னுடன் இருந்த குழுவினரும் கையெழுத்திட்டதாகவும் தான் இதற்கு முன்பு 11.04.2006 ம் தேதி ஊழல்தடுப்புப் பிரிவு காவல் ஆய்வாளர் அவர்களிடம் ஒரு வாக்குமூலம் கொடுத்ததாகவும். அந்த வாக்கு மூலம் அரசு சான்றாவணம் 4 ஆகும் என்றும் தெரிவித்துள்ளார்.



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According to P.W.3, even the petitioner's vehicle was also videographed. But the videograph the petitioner vehicle was not there. Since the statement of the P.W.3 is not supported by the evidence, the contention of the petitioner that his vehicle was not at all involved ought to be accepted, it is a case of no evidence.

8. Therefore, this Court is of the considered opinion that the respondents on assumption had imposed the punishment. Hence, the punishment ought to be quashed.

9. In the light of the above observations, the impugned punishment order is quashed and the respondents are directed to pass consequential orders and the said exercise shall be completed within a period of six weeks from the date of receipt of a copy of this order.

10. Accordingly, the present writ petition stands allowed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

26.04.2023

NCC : Yes / No
Index : Yes / No



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- 1.TheAdditional Chief Secretary to Government,
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- 2.The Director General of Police,
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- 3.The Deputy Inspector General of Police,
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S.SRIMATHY, J

sbn

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