

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.09.2015

CORAM:

THE HONOURABLE MR. JUSTICE SATISH K. AGNIHOTRI
AND
THE HONOURABLE MR. JUSTICE K.K.SASIDHARAN

W.A. No.1364 of 2015 and M.P. No.1 of 2015

K. Brindavathy (retired)
Inspector of Police
673 Periyar Nagar
Tirupattur Taluk
Vellore District

Appellant/Petitioner

vs.

1 The Deputy Inspector General of Police
Salem Range
Salem

2 The Additional Director General of Police
Law and Order
Tamil Nadu, Chennai

3 The Secretary to Government
Home (Police - IV-A) Department
Fort St. George
Chennai 600 009

Respondens/Respondents

Writ Appeal preferred under Clause 15 of the Letters Patent challenging the order dated 10.06.2014 passed in W.P. No.23870 of 2011. Petition filed under article 226 of the constitution of India for a writ of certiorari, calling for the records of the 1st respondent in connection with the impugned orders passed by him in C.No.B2/2748/2007 in P.R.No.13/B2/SLM (R)/2009 dated 25/09/2009 and modified by the 2nd Respondent in R.C.No.002674/AF2(2)/2009 dated: 03/07/2010 and confirmed by the 3rd respondent in G.O.(20)No.320, Home (Pol-IVA) Department dated 08/09/2011.

For appellant

Mrs. Selvi George

For respondents

Mr. P.S. Sivashanmugasundaram
Special Government Pleader

JUDGMENT

(delivered by SATISH K. AGNIHOTRI, J.)

This intra-Court appeal is directed against the order dated 10 June 2014 rendered in W.P. No.23870 of 2011.

2 For the sake of brevity, clarity and convenience, the parties are referred to as per their rank in the instant intra-Court appeal.

3 The appellant filed the instant writ petition impugning the following orders:

i The order dated 25 September 2009 passed by the first respondent, whereby and whereunder, the appellant, working as Sub-Inspector of Police, was imposed with a punishment of compulsory retirement on having found 9 serious charges of misconduct proved in a proper domestic enquiry;

ii The order dated 23 July 2010 passed by the second respondent modifying the punishment of compulsory retirement as "reduction in rank for three years to be spent on duty and that she shall be posted away from Krishnagiri District by the Deputy Inspector General of Police, Salem Range during the rank reduction period" and

iii The Government Order issued in G.O. (2D) No.320, Home (Police IVA) Department dated 08 September 2011, whereby and whereunder, the appellant's petition challenging the order dated 23 July 2010 passed by the second respondent was rejected by the Government.

4 The learned Single Judge, examining all aspects of the matter and also the enquiry report in extenso, held that the enquiry was conducted properly without there being any irregularity, deficiency or illegality and all the authorities have rightly held that all the nine charges were proved and eventually, dismissed the writ petition.

5 Heard the learned counsel for the appellant and the learned Special Government Pleader and also perused the pleadings and documents appended thereto.

6 Serious charges of misconduct were framed against the appellant. All the charges were found proved, after a detailed enquiry. The said charges read as under:

"Charge - 1

Grave criminal misconduct by unbecoming of a police officer in having married Thiru. V. Subramani, HC 1398 in the year 1987 while the latter was having a spouse by name Jegathambal living with four children and thereby violated Rule 23(1)(a) of the Tamil Nadu Subordinate Police Officers' Conduct Rules, 1964.

Charge - 2

Gross indisciplinary conduct in having purchased a house site measuring 1675 sq. ft. area in S.No.335/1, Pachal Village, Jolarpet Panchayat Union, Thiruppattur Tk., North Arcot Ambedkar District from Thiru. Chinnathambi, S/o Chinnakutti, Annandapatty Village, Thiruppattur Tk. North Arcot Ambedkar District for a sum of Rs.17,000/- and got the said immovable property registered on 25.2.1991 by paying stamp duty of Rs.2,160/- without notice to the prescribed authority and thereby violated the provisions in Rule 9(1)(a) of Tamil Nadu Subordinate Police Officers' Conduct Rules, 1964.

Charge 3

Gross indisciplinary conduct in having purchased a house site measuring 365 sq. ft. area in S.No.150/2, Thiruppathur Village, Thiruppathur Panchayat Union, Thiruppathur Tk., North Arcot Ambedkar District from Thiru. Thangavel Gounder, S/o Sama Gounder, Pa.Vu.Sa.Nagar, Thiruppattur Village, Thiruppattur Tk., North Arcot Ambedkar District for a sum of Rs.79,500/- and got the said immovable property registered on 07.11.1994 by paying stamp duty of Rs.12,002/- without notice to the prescribed authority and thereby violated the provisions in Rule 9(1)(a) of Tamil Nadu Subordinate Police Officers' Conduct Rules, 1964.

Charge 4

Gross indisciplinary conduct in having disposed of a house site worth Rs.1,17,280/- measuring 3,665 sq. ft. area in S.No.150/2, Thiruppathur Village, Thiruppathur Panchayat Union, Thiruppathur Tk., Vellore District, registering in the name of Thiru. Chinnathambi, W/o T.P. Kannan, D.No.99/98, Periyar Nagar, Thiruppattur Town, Thiruppattur Tk. Vellore District on 6.8.1999 by paying stamp duty of Rs.4,700/- by "Dhanam Settlement" without notice to the prescribed authority and thereby violated the provisions in Rule 9(1)(a) of Tamil Nadu Subordinate Police Officers' Conduct Rules, 1964.

Charge 5

Gross indisciplinary conduct in having disposed of a house site worth Rs.50,250/- measuring 1,675 sq. ft. area in S.No.335/1, Pachal Village, Jolarpet Panchayat Union, Thiruppattur Tk., North Arcot Ambedkar District by registering in the name of Thiru. Chinnathambi, W/o T.P. Kannan, D.No.99/98, Periyar Nagar, Thiruppattur Town, Thiruppattur, Vellore District on 06.08.1999 by paying stamp duty of Rs.2,021/- by "Dhanam Settlement" without notice to the prescribed authority and thereby violated the provisions in Rule 9(1)(a) of the Tamil Nadu Subordinate Police Officers' Conduct Rules, 1964.

Charge 6

Gross indisciplinary conduct in having omitted to submit the return of her assets in the prescribed forms in Schedule I giving the full particulars namely the immovable property in her name and thereby violated the provisions laid down under Rule 9(3)(a) of Tamil Nadu Subordinate Police Officers' Conduct Rules, 1964.

Charge 7

Gross indisciplinary conduct in having omitted to submit the return of her movable assets Rs.77,150/- in the prescribed forms in Schedule I giving the full particulars namely the immovable property in her name and thereby violated the provisions laid down under Rule 9(3)(c) of Tamil Nadu Subordinate Police Officers' Conduct Rules, 1964.

Charge 8

Gross indisciplinary conduct in having neither submitted to the prescribed authority a statement in Form A showing the immovable property nor furnished the required certificate in the prescribed format along with the statement of immovable property acquired and registered in her name and thereby violated the provisions laid down under sub-rules (7) and (9) of Rule 9 of Tamil Nadu Subordinate Police Officers' Conduct Rules, 1964.

Charge 9

Grave criminal misconduct by unbecoming of a public servant in holding possession of assets pecuniary resources to the tune of Rs.1,26,242/- which is 14% disproportionate to the known sources of her income during the period between 1.1.1991 and 4.5.2002 and thereby involved in

Dharmapuri V & AC Cr.No.6/AC/2002 u/s 13(2) r/w 13(1) of PC Act, 1988 reported on 2.5.2002 and brought disrepute to the Police Department."

7 The aforesaid charges are of serious and grave nature and the appellant has failed to establish that the enquiry was not conducted in accordance with law. It is not a case of perverse finding or enquiry based on no evidence nor there is any violation of principles of natural justice. The learned Single Judge has examined all the nine charges at length, while arriving at a conclusion that same were rightly found proved.

8 In the light of the aforesaid charges, there is no reason to take a view contrary to the one taken by the learned Single Judge. Even otherwise, we are of the considered view that the Appellate Authority has taken a lenient view in this case and modified the punishment of compulsory retirement imposed on the appellant as "reduction in rank for three years to be spent on duty and that she shall be posted away from Krishnagiri District by the Deputy Inspector General of Police, Salem Range during the rank reduction period". We are not going into the facts as to whether the modification was proper or not as the same is not the subject matter before us.

9 In such view of the matter, the order passed by the learned Single Judge is unexceptionable, just and proper, warranting no interference.

10 Resultantly, this intra-Court appeal fails and is accordingly dismissed. However, the appellant is entitled to all the terminal benefits, which she is entitled to, on the basis of the punishment order. No costs. Connected Miscellaneous Petition is closed.

Sd/-

Asst.Registrar (CO)

/true copy/ जयते

Sub Asst. Registrar

cad

To

- 1 The Deputy Inspector General of Police
Salem Range
Salem

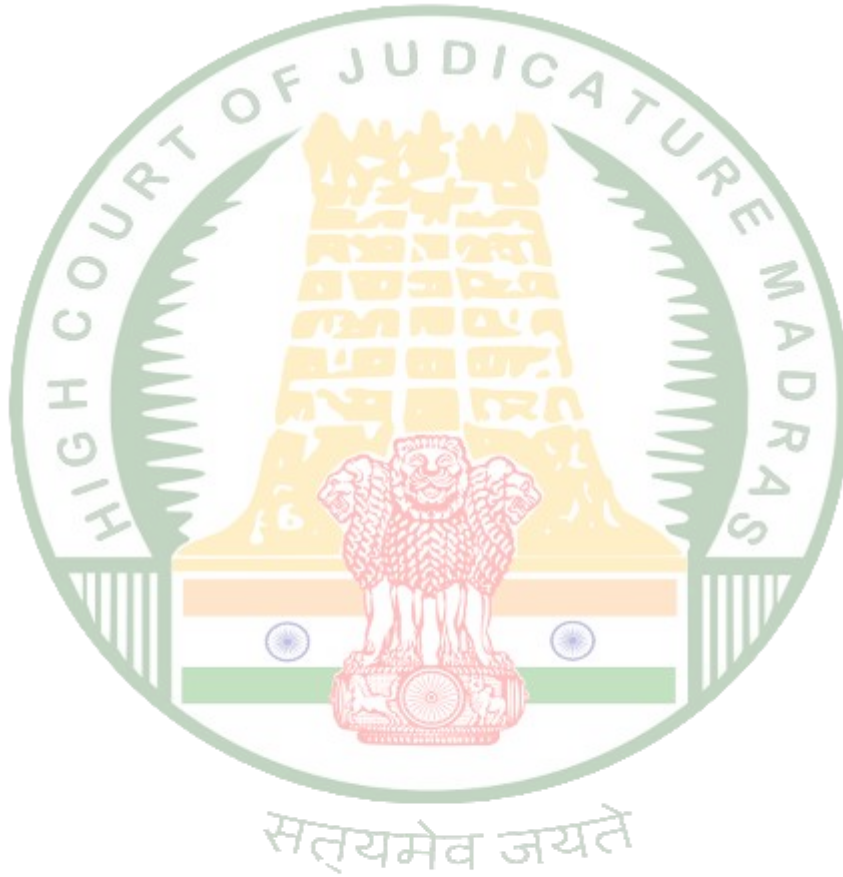
2 The Additional Director General of Police
Law and Order
Tamil Nadu, Chennai

3 The Secretary to Government
Home (Police - IV-A) Department
Fort St. George
Chennai 600 009

+1 cc to M/s.S.Selvi George, Advocate, sr.51618

W.A. No.1364 of 2015

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