

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.01.2015

CORAM

THE HON'BLE MR. JUSTICE T.RAJA

W.P.No.11740 of 2007

(O.A.No.2770 of 2003)

N.Chandran

...Petitioner

Vs.

The Superintendent of Police,  
Dindigul District.

...Respondent

Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorari to call for the records of the respondent in connection with the impugned order passed in PR No.154/02 dated 30.06.2003 and quash the same.

For Petitioner : Mr.K.Venkataramani, Sr. Counsel  
for Mr.M.Muthappan

For Respondent : Mr.R. Govindasamy,  
Addl. Govt. Pleader

ORDER

The prayer in the writ petition is to quash the order of the respondent dated 30.06.2003.

2.It is the case of the petitioner that he entered the service as Grade II Police Constable in District Armed Reserve, North Madurai in the year 1976 and subsequently, transferred to local police in the year 1989. The petitioner was promoted as Grade I Constable in the year 1994 and as Head Constable in the year 1999. According to the petitioner, he was serving as Head Constable in Kodaikanal Traffic

Police Station from 22.08.2001 to 28.09.2002. While so, on 22.09.2002, the petitioner was doing his second beat duty at Kodaikanal CSA -2, one Ramasamy, Head Constable, Venkatachalam, Grade I Police Constable and two other police constables, who were travelling in a Maruti Van bearing Regn. No.TN 59 A 7705, intercepted the tourists and demanded Rs.10,000/- for not registering case against them and finally, received Rs.2,500/-. Since they came to know that the tourists were preparing a complaint regarding the said incident, they returned the money to the tourists. Based on the news item in the local news paper, enquiry was ordered and a report was submitted against Ramasamy, Venkatachalam, one Paraman as well as the petitioner.

3.After completion of preliminary enquiry, the petitioner was transferred from Kodaikanal Police Station to Idayakottai Police Station and he was served with a charge memo, wherein two charges have been framed to the effect that the petitioner along with three other police constables attempted to misbehave and used abusive language against the tourist party on 22.09.2011 at about 2 p.m. near Pillar Rock at Kodaikanal and also demanded Rs.10,000/- and thereafter, obtained Rs.2,500/- and subsequently returned the amount. The petitioner submitted a reply, denying the charges. The Deputy Superintendent of Police, Palani was appointed as enquiry officer to enquire into the charges and held that the second charge has been proved against all the delinquents. The petitioner submitted a representation to the disciplinary authority viz., the respondent, who, held that the second charge has been proved and imposed a punishment of reduction in time scale of pay by two stages for two years without cumulative effect, by order dated 30.06.2003. Aggrieved against the same, the petitioner filed O.A.No.2770 of 2003 before the Tamil Nadu Administrative Tribunal. On abolition of the Tribunal, the said Original Application was transferred and renumbered as W.P.No.11740 of 2007.

4.Heard Mr.K.Venkatramani, learned senior counsel appearing for the petitioner and Mr.R.Govindasamy, learned Additional Government Pleader appearing for the respondent.

5.Learned senior counsel appearing for the petitioner would submit that while the petitioner was serving as Head Constable at Kodaikanal Traffic Police Station from 22.08.2001 to 28.09.2002, he was issued with a charge memo under Rule 3(b) of the Tamil Nadu Police Subordinate Service (Discipline and Appeal) Rules for two allegations viz., on 22.09.2002 at 14.00 hours, the petitioner, who was deputed for day beat duty at Kodaikanal CSA-2 came by Maruti van

bearing Regn. No.TN 59 A 7706 along with Head Constable 950 Paraman, HC 1324 Ramasamy and Grade I Police Constable 111 Venkatachalam to Pillar Rock area and approached the tourists party and misbehaved with the ladies. Secondly, on the same day, the petitioner and others approached the tourists Mr.John Selvasingh and others and identifying themselves as forest officials and demanded Rs.10,000/- for having committed the offence of using liquor in the prohibited area and finally after bargain, received Rs.2,500/- and got their signatures in a plain paper. Thereafter, they also returned that amount after coming to know that tourists were preparing a complaint against them, they returned the amount of Rs.2,500/-. Thereafter, the petitioner submitted explanation. Finding no substance, the enquiry officer/Deputy Superintendent of Police, Kodaikanal was appointed, who, on completion of enquiry, held that Charge No.1 was not proved, however, the second charge was proved. On the basis of the report of the enquiry officer, the disciplinary authority awarded the punishment of reduction in time scale of pay by two stages for two years and it was also made clear that the period of reduction shall not operate to postpone the future increments on 30.06.2003. The learned senior counsel appearing for the petitioner would submit that all along it was claimed by the petitioner in the written explanation and also before the enquiry officer that the petitioner was sitting only in the Maruti van when the incident took place and therefore, he cannot be implicated along with two other accused. It is also his argument that when other co-delinquents had returned the amount of Rs.2,500/- on the premise that the tourists were preparing complaint, the petitioner did not even join with the other two delinquents for returning the aforesaid amount of Rs.2,500/-. Therefore, the question of implicating the petitioner along with two other co-delinquents is far from acceptance also was overlooked by both the enquiry officer as well as the disciplinary authority. When the enquiry officer also has not in his finding found the petitioner guilty on the basis of any strong evidence against the petitioner, the punishment imposed against him by the Superintendent of Police, Dindigul, will affect his pension and the same has to be reviewed.

6.A detailed counter affidavit has been filed on behalf of the respondent. The learned Additional Government Pleader appearing for the respondent would submit that it is not the first time the petitioner is facing the disciplinary proceedings, for which, he has been imposed with a punishment of reduction in time scale of pay by two stages for two years and the period of reduction shall not operate to postpone the future increments, on earlier occasion also when the petitioner had committed serious misbehaviour joining hands with other co-delinquents in a drunken mood by intercepting tourists

viz., one Ravichandran and his family hailing from Chennai to Kodaikanal, he was charge sheeted along with three other delinquents and finally the enquiry officer found him guilty. When the impugned punishment had already been imposed against three other co-delinquents, now taking a different view might give a foundation for others to ask for review of the punishment already meted out to them.

7.This Court finds merit in the submission made by the learned Additional Government Pleader. It has not been disputed that the petitioner was also a member of the team formed to ease out the traffic on 22.09.2002. When the enquiry officer viz., Deputy Superintendent of Police, Kodaikanal having found that the Charge No.1 was not proved, has clearly given a categorical finding with regard to Charge No.2 that the petitioner is found guilty of the second charge, the disciplinary authority, uniformly finding all the persons guilty of the charge and imposed the punishment of reduction in time scale of pay by two stages for two years making it clear that the period of reduction shall not operate to postpone the future increments. Therefore, this Court finds no ground to interfere with the impugned order. Hence the writ petition fails and the same is dismissed. No costs.

Sd/-

Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

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To

The Superintendent of Police,  
Dindigul District.

1 CC to Mr.M.Muthappan, Advocate SR.No.2831

1 CC to the Government Pleader, SR.No. 2879

RV (CO)

PSI (13.03.2015)

W.P.No.11740 of 2007