

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.01.2015

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.12503 of 2007 (T)

O.A.No.656 of 2003

S.Parameswaran

... Petitioner

Vs.

1.The Inspector General of  
Prisons,  
807, Anna Salai,  
Chennai - 600 002.

2.The Deputy Inspector General  
of Prisons,  
Madurai Circle,  
Madurai.

... Respondents

PRAYER: Writ Petition came to be numbered by transfer of O.A.No.656 of 2003 on the file of the Tamil Nadu Administrative Tribunal seeking to call for the records relating to the proceedings of the Deputy Inspector General of Prisons, Madurai Circle, Madurai, the second respondent herein, made in No.678/Mu.Vu./2001-1, dated 02.04.2001, quash the same and direct the respondents herein to disburse all the consequential service benefits which has been withheld on account of penalty such as time scale, promotion on par with his juniors, etc. and disburse all the arrears accrued therein within the time frame.

For Petitioner :Mr.K.Rajkumar

For Respondents :Mr.R.Govindasamy, AGP

ORDER

The petitioner filed O.A.No.656 of 2003 before the Tamil Nadu Administrative Tribunal seeking to quash the impugned order passed by the second respondent / the Deputy Inspector General of Prisons, Madurai Circle, Madurai, in his proceedings dated 02.04.2001, with a consequential direction to the respondents to pay all the consequential benefits. On abolition of the tribunal, the same was transferred to the file of this Court and renumbered as W.P.No.12503 of 2007.

2. Assailing the impugned order, learned counsel appearing for the petitioner submitted that the petitioner was appointed as Assistant Jailor on 01.02.1985. Thereafter, he was promoted as Deputy Jailor on 26.02.1991 and while he was discharging his duties in the said post, there was a riot in the Central Prison at Palayamkottai on 13.03.2000, wherein three jail wardens were attacked by the prisoners. Subsequent to the said incident, a case has been also registered in Cr.No.73/2000 for offences under Section 147, 332 and 324 of IPC against certain prisoners. The petitioner, who was on duty on the said date, was directed by the Superintendent to take the injured to Government Hospital, Palayamkottai, for proper treatment at about 17.45 hrs. and after completing such work assigned to him, he returned to the Prison at about 19.30 hrs. on the same day. It is further submitted that while the petitioner went to the Hospital, the lock-up was closed as usual, however, in the next day, a search was made in the prison in the presence of Police Commissioner, DIG of Prisons from 6 a.m. to 9 a.m. on 14.03.2000 and in the said process, certain contraband articles were seized from various cells. Therefore, on the basis of such articles recovered from the Block No.4, wherein the petitioner was working as in-charge to the said block, he was issued with a charge memo under Rule 17(b) of the Tamil Nadu Civil Services (Discipline & Appeal) Rules, by the Superintendent of Central Prison, Palayamkottai, on 23.03.2000, alleging that while doing supervisory duty in the 4<sup>th</sup> Block of Central Prison, Palayamkottai, on 13.03.2000, he had failed to look after the lock-up, as a result, certain prohibited articles were recovered from the 4<sup>th</sup> Block on 14.03.2000 by the search team. On receipt of the charge memo, the petitioner requested for certain documents such as; (a) three accident register memos received by the Perumalpuram Police Station from the General Hospital, Palayamkottai; (b) copies of O.P. Tickers surrendered to the Superintendent; (c) copy of In and Out Register, etc. Though the petitioner requested such documents, none of the documents was supplied, however, he has submitted his explanation on 18.12.2000, with a further request to send the extract of lock-up register dated 13.03.2000 to Forensic Lab, as his signature has been forged as if he was on duty at 6 p.m. on 13.03.2000. Thereafter, the Enquiry Officer was appointed, who, in turn, submitted his report on 12.01.2001 to the Deputy Inspector General of Prisons, Madurai / the Appellate Authority, to pass final orders, contrary to the statutory rules, he pleaded. In the said report, the Enquiry Officer found the petitioner guilty of all the charges levelled against him. Though the petitioner submitted his explanation on receipt of the report from the Enquiry Officer, the Appellate Authority, without taking note of the same, in his office proceedings dated 02.04.2001, imposed a punishment of reduction of time scale by two stages for two years with cumulative effect.

3. By narrating the above said facts, it is further contended by the learned counsel for the petitioner that the petitioner was not in-charge of 4<sup>th</sup> Block in Central Prison,

Palayamkottai, on 14.03.2000, therefore, any contraband articles recovered from the 4<sup>th</sup> Block cannot be put against the petitioner. Secondly, when there is no official record to show that the petitioner was in-charge of the 4<sup>th</sup> Block at the relevant point of time, especially when the petitioner has specifically denied his signature showing that he was not in-charge of the 4<sup>th</sup> Block on 13.03.2000, without sending the signature to the Forensic Laboratory, the punishment ought not to have been imposed.

4. It is further contended that the Enquiry Officer has also wrongly given a finding against the petitioner on the basis of a report dated 10.07.2000 given by five persons, namely, Mr.C.Kannan, Warden, Mr.J.P.Thangapandiyan, Mr.P.Karuppaiya, Mr.N.Ramakrishnan, who were working as Assistant Wardens, and Mr.R.Laxmanan, Chief Head-constable. But, the above said report was not given to the petitioner, so as to enable him to give his reply to the said report, therefore, he contended, it is not proper on the part of the disciplinary authority to impose any punishment on the basis of the above said report, for, the said report was neither furnished to the petitioner nor he was allowed to cross-examine the authors of the said report.

5. In support of his submissions, he has also relied upon a judgment of this Court in the case of R.Balakrishnan v. Food Corporation of India, New Delhi and another ((2011) 4 MLJ 669) for a proposition that decision of enquiry authority is to be based on certain legal evidence and principles of natural justice requires that contents of documents produced must be proved in connection with the charges framed in the manner known to law. By citing so, learned counsel further contended that unless the authors of the above said report dated 10.07.2000 are examined to substantiate the fact that the statements were recorded by the investigating official, no reliance can be placed on those statements even in disciplinary proceedings. It is further contended that the petitioner has been completely prejudiced on account of the fact that those documents have not even exhibited by the respondents during the enquiry, therefore, he pleaded, the punishment arrived at by the second respondent against the petitioner on the basis of the above said report dated 10.07.2000, is untenable, thus, the same is liable to be set aside.

6. Learned Additional Government Pleader appearing for the respondents, by filing a detailed counter affidavit, submitted that while the petitioner was working as Deputy Jailor, on 13.03.2000, he was allotted duty in the 4<sup>th</sup> Block of the Central Prison and he was the block incharge officer on the said day. Whiles, on 14.03.2000, a special search was conducted between 06.15 hrs. to 08.20 hrs. along with the Commissioner of Police, Tirunelveli City, Deputy Inspector General of Prisons, Madurai Range, RDO, Tahsildar, Police Officials and Wardens. During the course of search, certain contraband

articles were seized from various parts of the prison and in the said process, following articles were seized from the 4<sup>th</sup> Block, where the petitioner was working as incharge of the said Block.

- i. Belt - 7 nos.
- ii. Silver eating plate - 4 nos.
- iii. Small tin knife - 6 nos.
- iv. Blade - 8 nos.
- v. Sigar lights - 2 nos.
- vi. Caram board - 1 no.

In view of the seizure of the above said articles, a charge memo dated 23.03.2000 was issued under Rule 17 (b) of the Tamil Nadu Civil Services (Discipline & Appeal) Rules, by the Superintendent, Central Prison, Palayamkottai. Thereafter, the Enquiry Officer was appointed, who, in turn, upon considering the materials placed before him along with the explanation submitted by the petitioner, submitted his report on 12.01.2001 and in the said report, it is stated that the charges levelled against the petitioner stood proved. On receipt of the report as well as the explanation submitted by the petitioner to the report, the Appellate Authority imposed a punishment of reduction of time scale by two stages for two years with cumulative effect.

7. With regard to the contention of the petitioner that the report dated 10.07.2000 submitted by the five persons stated supra was not issued to the petitioner so as to enable him to submit his explanation, learned Additional Government Pleader submitted that the authors of the said report dated 10.07.2000 cannot be allowed to be examined by the petitioner in the enquiry, for the reason that one Mr.P.K.Paulwilson, II Grade Warden, was allotted duty in the Block No.4 on 13.03.2000 as checking warden during lock-up and a disciplinary action was also initiated against him for similar lapses, therefore, he cannot be examined as defence witness for another accused officer, hence, he pleaded, the above said contention of the petitioner cannot be accepted. In fact, other defence witness one Mr.R.Selvaraj was examined and his statement was taken on record. Thus, the contention of the petitioner that he was not given fair and reasonable opportunity is far from acceptance.

8. This Court finds some force in the above said argument of the learned Additional Government Pleader appearing for the respondents. When Mr.P.K.Paulwilson, II Grade Warden, who was also allotted duty in the Block No.4 on 13.03.2000 as checking warden during lock-up, was also subjected to disciplinary action for similar lapses, this Court finds no infirmity in not allowing the above said person to be examined by the petitioner, for, the other defence witness Mr.R.Selvaraj was examined and his statement was also taken on record.

9. With regard to the other contention of the petitioner that he was not available during lock-up day on 13.03.2000,

therefore, his signature has been impersonated, in my view, the same does not carry any merit, for the reason that when the above said contention was made, this Court directed the learned Additional Government Pleader appearing for the respondents to produce the register maintained by the respondent department. On such production, I have also perused the register, wherein I could see the signature of the petitioner, not only on 13.03.2000 and 14.03.2000, but also in the rest of the dates, all signatures to my mind seem to be the same. Therefore, the contention of the petitioner that his signature found in the lock-up register on 13.03.2000 was impersonated also cannot be accepted.

10. Further, it is no doubt true that there was a riot took place on 13.03.2000 and admittedly, certain contraband articles were sized from the Block No.4 and in the said Block, the petitioner was the incharge. As contended by the learned counsel for the petitioner, he was not there on the said date, however, during his absence, a special search team inspected the Block No.4 and in that process, they found some contraband articles as stated supra. Therefore, the charges levelled against the petitioner that he has failed to supervise the inmates and even other persons as incharge of the Block No.4, cannot be lightly challenged. Thus, for the aforesaid reasons, this Court finds no infirmity or flaw in the impugned order passed by the second respondent. Accordingly, the writ petition fails and the same is dismissed. No Costs.

Sd/-

Assistant Registrar

Dated:2.3.15

True Copy

Sub Assistant Registrar

To

1.The Inspector General of  
Prisons, 807, Anna Salai, Chennai - 600 002.

2.The Deputy Inspector General  
of Prisons, Madurai Circle, Madurai.

+1 cc to Mr.K.Rajkumar, Advocate, SR.4078

+1 cc to Government Pleader, SR.4393.

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W.P.No.12503 of 2007