



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 09.12.2016

Delivered on : 23.12.2016

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CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

AND

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.A. (MD) No.1158 of 2016

and

C.M.P. (MD) No.7409 of 2016

V.Srinivasan : Appellant

Vs.

1.The Director General of Police,
O/o. the Director General of Police Office,
Mylapore,
Chennai-4.

2.The Commissioner of Police,
Madurai City,
Madurai.

3.The Deputy Commissioner of Police,
Headquarters,
Madurai City,
Madurai.

: Respondents

PRAYER: Writ Appeal is filed under Clause 15 of Letters Patent against the order of a learned Single Judge of this Court dated 03.06.2016, in W.P. (MD) No.9815 of 2016.

Prayer in WP(MD). 9815/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Pleased to issue a Writ of Certiorari calling for the records relating the impugned order passed by the 2nd respondent in his proceedings in C.No.D1(3)/Appeal-02/16 dated 15.03.2016 confirming the order passed by the 3rd respondent in his proceedings in PR.No. 63 of 2015 dated 09.10.2015 and quash the same.

For Appellant : Mr.Mohammed Imran,
For M/s.Ajmal Associates

For Respondents : Mr.S.Chandrasekar,
Government Advocate

**JUDGMENT**

R. SUBBIAH, J

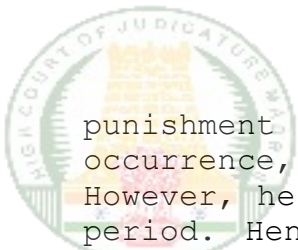
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This Writ Appeal has been filed as against the order dated 03.06.2016, made in W.P.(MD)No.9815 of 2016, dismissing the Writ Petition filed by the appellant to quash the order passed by the second respondent in C.No.D1(3)/Appeal-02/16, dated 15.03.2016, confirming the order passed by the third respondent in his proceedings in PR.No.63 of 2015, dated 09.10.2015, imposing the punishment of censure on the appellant.

2. The appellant herein was appointed as Junior Assistant at Madurai Rural District, on 27.04.1987. Later, he was promoted as Assistant and further, promoted as Superintendent and presently, he has been working as such at the Office of City Police Office, Madurai City. As he was working as Superintendent of Pay Section-I, he used to work out the pay anomalies of the police personnel and place the same before Mr.P.Sekar, Administrative Officer, Accounts. However, without processing the same, Sekar, Administrative Officer, kept the matter in abeyance. On account of the delay in correcting the pay anomalies, the police personnel preferred a grievance petition, in furtherance of which, he was enquired by the second respondent as to the bills submitted by him to the said Sekar, Administrative Officer. In the enquiry, he disclosed the real facts to the authority concerned, which infuriated Sekar, Administrative Officer, to act as against the appellant. On account of vengeance, Sekar, Administrative Officer, has wantonly and willingly protracted the bills sent by the appellant. Sekar, Administrative Officer, delayed the sanctioning of bills intentionally and raised unwanted and unnecessary queries.

3. While so, when Sekar, Administrative Officer, was on leave, the bills prepared by the appellant were approved by the Administrative Officer (in-charge). However, Sekar, Administrative Officer, on his returning to office, has made a query in respect of the bills, which were already cleared by the In-charge Officer. With a view to clarify the position, the appellant had gone to the Office of the said Sekar on 13.05.2015. But the said Sekar, Administrative Officer, without allowing the appellant to submit anything, scolded him in filthy language and also slapped him. This was witnessed by Mr.B.Dhinakaran, Junior Assistant. With great humiliation, he came out of the office. As a matter of fact, the appellant was the victim of the incident.

4. In this regard, he preferred a complaint to the third respondent on 13.05.2015, on receipt of which, the third respondent conducted an enquiry and submitted a report dated 14.05.2015 to the second respondent. In the said report, though it is stated that Sekar, Administrative Officer, slapped the appellant, it has also been stated as if the appellant picked up a quarrel with the said Sekar. Hence, a show cause notice under Rule 17(a) of the Tamil Nadu Civil Services (Discipline & Appeal) Rules, 1955, was purportedly issued to the appellant seeking explanation as to the alleged misconduct. The appellant has also submitted his explanation. Thereafter, the third respondent, by impugned proceedings in PR.No.63/2015, dated 09.10.2015, has imposed the



punishment of censure. In fact, the appellant is the victim in the occurrence, but, contrary to the same, he was made as a delinquent. However, he was not in a position to file an appeal within the statutory period. Hence, he was constrained to file a Writ Petition before this Court in W.P.(MD)No.1683 of 2016 and this Court, vide order dated 25.01.2016, permitted him to file an appeal within a period of one week and on receipt of the same, the second respondent was directed to decide the appeal on merits. Accordingly, the appellant filed an appeal before the second respondent, who in turn, has simply confirmed the order passed by the third respondent. Challenging the same, the appellant has filed the Writ Petition in W.P.(MD)No.9815 of 2016. The learned Single Judge, on going through the entire materials available on record and after hearing the rival submissions made on either side, dismissed the Writ Petition holding that the disciplinary authority as well as the appellate authority have imposed the punishment of censure, considering the allegations made against the appellant. Aggrieved over the same, the present Writ Appeal is filed.

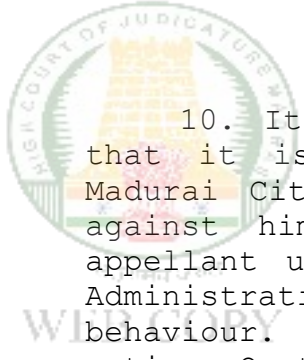
5. The main contention of the appellant is that though he is the victim in the occurrence, he was made as a delinquent and it is only the said Sekar, Administrative Officer, who slapped the appellant and instead of initiating disciplinary proceedings against the said Sekar, Administrative Officer, the appellant was issued with show cause notice, which culminated in imposing the punishment of censure. Hence, the approach adopted by the third respondent is wholly discriminatory in nature. Furthermore, the second respondent, being the fact finding authority, ought to have assigned reasons for rejecting the appeal. However, the second respondent, without assigning any valid reason, has simply rejected the appeal.

6. In this regard, the learned counsel for the appellant has drawn the attention of this Court to the order passed by the second respondent dated 15.03.2016 and submitted that the appellate authority, by a non-speaking order, confirmed the order of the third respondent, imposing punishment of censure on him.

7. In support of the said contention, the learned counsel for the appellant has relied on a judgment of a Division Bench of this Court reported in **2012(1) CWC 696 [A.Sankaran v. State of Tamil Nadu]**, and submitted that before imposing punishment, it is the duty of the disciplinary authority to go into merits of report of the enquiry officer who submits his findings with regard to the charges. In the instant case, the appellate authority, without discussing the various grounds raised by the appellant in the appeal, has simply confirmed the punishment imposed by the disciplinary authority, who is the third respondent herein. Thus, the learned counsel for the appellant seeks to quash the proceedings impugned in the Writ Petition.

8. Heard the learned Government Advocate for the respondents also.

9. Keeping in mind the above said submissions made by the learned counsel on either side, we have carefully gone through the materials available on record.



10. It is the submission of the learned counsel for the appellant that it is only Sekar, Administrative Officer, City Police Office, Madurai City, who slapped the appellant, but, no action was taken against him. On the other hand, action was initiated against the appellant under Rule 17(a) stating that he shouted at the said Sekar, Administrative Officer, and thereby, indulged in serious indisciplined behaviour. Thus, there is a discrimination in initiating disciplinary action. On that ground, the impugned orders are liable to be set aside.

11. However, from the perusal of the typed-set of papers, we find that on conducting enquiry, the said Sekar, Administrative Officer, was also imposed with severe punishment of postponement of next increment for a period of six months without cumulative effect. So far as the appellant is concerned, by taking a lenient view, the disciplinary authority awarded the punishment of censure, which was confirmed by the appellate authority. Therefore, we do not find any substance in the said submission.

12. Yet another submission made by the learned counsel for the appellant is that though very many grounds have been raised in the grounds of appeal, without considering none of the grounds, the appellate authority, by way of a non-speaking order, without assigning any valid reason, has confirmed the order passed by the disciplinary authority. But, we find that the disciplinary authority, by assigning convincing reasons, imposed the minimum punishment of censure, which was confirmed by the appellate authority also. The relevant portion of the order of the appellate authority reads follows:

"7. I have carefully gone through the appeal petition, PR file and connected records.

i) As per Hon'ble High Court order re-examined issue this misconduct was proved.

ii) "Censure" is minimum punishment for delinquency, he committed. He has shouted to his superior Administrative Officer in the office and indulged in serious indisciplined behaviour. Hence, I am not inclined to cancel awarded punishment of censure. Again he has breached the rule and file Writ Petition in the High Court even without exhausting departmental appeal procedure. I have considered this appeal on merits and is rejected."

13. The learned Single Judge, finding that the reason assigned by the appellate authority appears to be sufficient to sustain the punishment of censure, has rightly dismissed the Writ Petition. Therefore, We do not find any infirmity or irregularity in the said finding of the learned Single Judge to make our interference. Thus, the Writ Appeal fails and accordingly, the same is dismissed. No costs. Consequently, the connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar

/True copy/

Sub Assistant Registrar



To

1.The Director General of Police,
O/o. the Director General of Police Office,
Mylapore, Chennai-4.

2.The Commissioner of Police,
Madurai City,
Madurai.

3.The Deputy Commissioner of Police,
Headquarters,
Madurai City,
Madurai.

+1 cc to government pleader SR No. 83585

Judgement made in
W.A. (MD) No.1158 of 2016
23.12.2016

SML
GJM/SS3/4-1-17/5P/5C