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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.06.2016

CORAM :

THE HONOURABLE MR.JUSTICE T.RAJA

Writ Petition (MD) No.9815 of 2016

and

W.M.P(MD)Nos.7759 and 7760 of 2016

V.Srinivasan

... Petitioner

Vs.

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

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

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

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of 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 as illegal.

For Petitioner

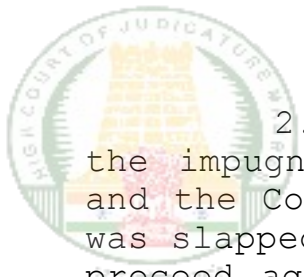
: Mr.Md.Imran for
M/s.Ajmal Associates

For Respondents

: Mrs.S.Bharathi,
Government Advocate.

ORDER

Mr.V.Srinivasan, aggrieved by an order of punishment of censure imposed by an order dated 09.10.2015 has preferred an appeal before the Commissioner of Police, Madurai City who was also in his proceedings dated 15.03.2016 considering the reprehensible conduct and finding that Mr.V.Srinivasan using filthy language by entering into the room of P.Sekar without permission in connection with getting signature of arrear bills quarrelled with one Mr.P.Sekar, Administrative Officer, City Police Office, Madurai City and indulged in serious indiscipline behaviour rejected his appeal. Aggrieved by the same, the

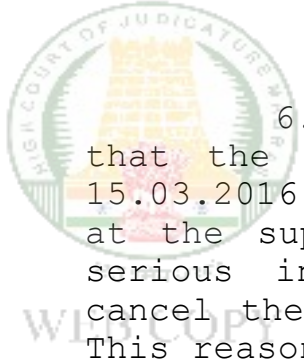


2.Learned counsel appearing for the petitioner assailing the impugned orders passed by the Deputy Commissioner of Police and the Commissioner of Police contended that when the petitioner was slapped by Mr.P.Sekar, it is not known how the respondents can proceed against the petitioner on the alleged charge that he has abused Mr.P.Sekar and finally imposed a punishment of censure.

3.Adding further he would submit that when the sole eye witness Mr.B.Dhinakaran after seeing the incident has given his deposition in writing dated 13.05.2015 making it clear that he has seen Mr.P.Sekar while slapping the petitioner, no enquiry was ordered against Mr.P.Sekar which is wholly unjustified. Moreover, without conducting any enquiry against Mr.P.Sekar who had slapped the petitioner, proceeding against the petitioner alone will amount to arbitrary exercise of power. When the respondents have initiated disciplinary proceedings under Rule 17(a) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules against the petitioner for using filthy language, they have completely let Mr.P.Sekar who slapped the petitioner to set free. Such approach adopted by the respondents is wholly discriminatory in nature, therefore, the same is liable to be set aside. Concluding his arguments, he would submit that mere reading of the deposition of Mr.B.Dhinakaran will clearly show that the petitioner was slapped by Mr.P.Sekar and it does not show that the petitioner picked up quarrel. When this being the position, the report of the third respondent that the petitioner picked up the quarrel, is false and it is contrary to the deposition of eye witness. Hence, the punishment of censure imposed against the petitioner based on no evidence is liable to be set aside, for yet another reason that neither the disciplinary authority nor the appellant authority has considered the explanation of the petitioner. In any event, the impugned orders are cryptic in nature and therefore, they will not stand to the test of Article 14 of the Constitution of India.

4.Mrs.S.Bharathy, learned Government Advocate appearing for the respondents would contend that it is an admitted case that both Mr.P.Sekar, Administrative Officer, City Police Office, Madurai City and the petitioner Mr.V.Srinivasan have unnecessarily disturbing the decorum of the office, resorted to quarrel with each other by using filthy languages. Therefore, two departmental proceedings were initiated under Rule 17(a) of the Tamil Nadu Civil Services (Discipline & Appeal) Rules, 1955 against both of them and the petitioner was issued with lesser punishment of censure whereas Mr.P.Sekar was imposed with more punishment of postponement of next increment for a period of six months without cumulative effect. I find merits in these submissions.

5.When departmental proceedings initiated under Rule 17 (a) of the Tamil Nadu Civil Services (Discipline & Appeal) Rules, 1955 against both the petitioner and Mr.P.Sekar, the contention advanced by the learned counsel for the petitioner that leaving Mr.P.Sekar who slapped the petitioner, proceeding against the petitioner alone is nothing but an arbitrary exercise of power, is far from acceptance.



6. With regard to non speaking order, it may be mentioned that the Commissioner of Police, in the impugned order dated 15.03.2016 has made it clear that since the petitioner has shouted at the superior officer in the office and thereby indulged in serious indisciplined behaviour, has rightly not inclined to cancel the punishment of censure awarded against the petitioner. This reason appears to be sufficient. Therefore, the writ petition is dismissed. No costs. Consequently, W.M.P(MD)Nos.7759 and 7760 of 2016 are closed.

Sd/-

Assistant Registrar(CS-I)

/TRUE COPY/

Sub Assistant Registrar

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To

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

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

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

+1cc to M/S.AJMAL ASSOCIATES, Advocate for the petitioner in
SR.No.28036/16

+1cc to M/S.THE SPECIAL GOVERNMENT PLEADER, SR NO: 27971/16

sms

JA-SKS-RR/SAR.I/16.06.2016/3P-6C

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