



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.12.2016

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

W.P. (MD) No.8423 of 2011

and

M.P. (MD) No.1 of 2011

P.Madasamy

... Petitioner

-vs-

1.The Director General of Police
Beach Road, Chennai-600 004

2.The Superintendent of Police
Ramanathapuram District

3.The Deputy Superintendent of Police
Ramanathapuram District

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for issuance of writ of certiorarified mandamus to call for the records pertaining to the impugned order in Rc.No.170236/AP.1(2)/2009, dated 15.11.2009, on the file of the respondent No.1 and quash the same as illegal and consequently direct the respondents to set aside the punishment awarded to the petitioner in P.R.No.121/2008 U/r 3(b) with consequential benefits.

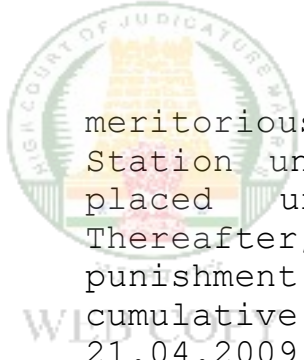
For Petitioner : Mr.T.Lajapathi Roy

For Respondents : Mr.S.Kumar, A.G.P.

O R D E R

The prayer in this writ petition is for issuance of a writ of certiorarified mandamus to quash the impugned order, in Rc.No.170236/AP.1(2)/2009, dated 15.11.2009, passed by the first respondent and to direct the respondents to set aside the punishment imposed on the petitioner, vide P.R.No.121/2008 u/r 3 (b) .

2. The writ petitioner was working as a Police Constable from 1968 to 1993. When he was appointed to him, he had put in a blemishless service for 25 long years and he was awarded with 70 rewards for his



meritorious service. While he was working in Keezhakarai Police Station under the control of the respondents 2 and 3, he was placed under suspension from 08.07.2008 to 13.07.2008. Thereafter, he was issued with a charge-memo and awarded with punishment of postponement of increment for two years with cumulative effect, by the second respondent, vide order, dated 21.04.2009. Challenging the same, the petitioner preferred an appeal before the Deputy Inspector General of Police, Ramanathapuram and the same was dismissed, vide proceedings in C.No.B1/Appeal 56/2009, dated 23.07.2009 and against which he filed a review petition before the first respondent, which was also came to be dismissed by the impugned order, in Rc.No.170236/AP.1(2)/2009, dated 15.11.2009. Aggrieved by the same, the petitioner is before this Court.

3. The respondents have filed their counter affidavit reiterating the factual aspects and stating that the punishment imposed on the petitioner was not harsh or disproportionate and therefore, the writ petition is liable to be dismissed.

4. The learned counsel appearing for the petitioner submitted that the petitioner was falsely implicated in an incident and he had not committed any misconduct as alleged by the respondents. He had preferred an appeal before the Deputy Inspector General of Police, Ramanathapuram Range and the Appellate Authority had passed a cryptic order without assigning any reason and the Reviewing Authority had also passed a cryptic order as passed by the Appellate Authority. Therefore, the learned counsel prays for interference of this Court.

5. Heard both sides and perused the materials produced.

6. As per Rule 6 of the Tamil Nadu Police Subordinate Services (Discipline and Appeal) Rules, 1955, (hereinafter, it may be referred to as "the Rules") the Appellate Authority shall consider whether the facts on which the order was based have been established; whether the facts established afford sufficient ground for taking action and whether the penalty is excessive, adequate or inadequate and after such consideration, the appellate authority shall pass orders confirming, enhancing, reducing or setting aside the penalty. While considering all these aspects, if the Authority comes to a conclusion that the matter shall be remitted back to the original authority for fresh consideration, it must discuss the reasons in its order for the conclusion so arrived at. But, in the instant case, the order passed by the Appellate Authority, dated 23.07.2009, or the order passed by the Reviewing Authority, dated 15.11.2009, do not disclose any reason and they have been made without application of mind.



7. In view of the foregoing discussions, this Court has no hesitation to set aside the orders passed by the Reviewing Authority as well as the Appellate Authority.

8. In the result, the writ petition is allowed and the order dated, 23.07.2009, passed by the Deputy Inspector General of Police, Ramanathapuram Range and the order, dated 15.11.2009, passed by the first respondent are set aside. The petitioner is directed to resubmit his appeal to the Appellate Authority, namely, Deputy Inspector General of Police, Ramanathapuram Range, within a period of fifteen days from the date of receipt of a copy of this order. On such appeal being presented, the Appellate Authority is directed to consider the same in conformity with Rule 6 of the Rules and pass reasoned orders within a period of three months thereafter. If the petitioner is aggrieved over the same, he is entitled to exhaust the remedies available under the Rules, if he chooses to do so. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

ASSISTANT REGISTRAR(CO)

/TRUE COPY/

SUB ASSISTANT REGISTRAR

To:

- 1.The Director General of Police,
Beach Road, Chennai-600 004.
- 2.The Superintendent of Police,
Ramanathapuram District.
- 3.The Deputy Superintendent of Police,
Ramanathapuram District.

+1 CC TO MR.T.LAJAPATHI ROY, ADVOCATE, SR NO,78457

krk

MAS/MR:22.05.2017:3P-5C

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and
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