

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.12.2017

CORAM:

THE HONOURABLE MR. JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR. JUSTICE RMT.TEEKA RAMAN

W.A.No.368/2017 and CMP.No.5650 of 2017

1. The Superintendent of Police,
Tiruvannamalai District,
Tiruvannamalai.
 2. The Deputy Inspector General of Police,
Vellore Range, Vellore.
 3. The Director General of Police,
Tamil Nadu, Chennai-4. Appellants/Respondent
- Vs
- N.Vajravelu Respondent/Petitioner

Prayer : Writ Appeal filed under Clause 15 of the Letter Patent against the order dated 21.12.2012 made in W.P.No.8848/2006 by a learned Judge.

WP.8848/2006:Filed Under Article 226 of Constitution of India to issue a writ of Certiorari or direction in the nature of writ calling for the records of the respondents 1 to 3 in connection with the impugned orders passed by them in PR No.57/2004 dated 22.06.05, C.No.B1/AP.23/2005, dated 13.07.2005 and RC No.937/223517 / AP.2(2)/2005, dated 06.01.2006 respectively and quash the same.

For Appellants :: Mr.Sivashanmugha Sundaram
Special Government Pleader

For Respondent :: Mr.R.Murali

JUDGMENT

(Judgment of the Court was pronounced by HULUVADI G.RAMESH, J.)

The Writ Appeal is directed against the order dated 21.12.2012 made in W.P.No.8848/2006 by a learned Single Judge.

2. The Writ Petition has been filed by the petitioner therein seeking to issue a Writ of certiorari calling for the records of the respondents 1 to 3 in connection with the impugned orders passed by them in PR.No.57/2004 dated 22.06.2005; C.No.B1/AP.23/2005 dated 13.07.2005 and RC.No.937/223517/AP.2[2]/2005 dated 06.01.2006 respectively and quash the same.

3. The case of the petitioner in the Writ Petition is that he entered the service as a directly recruited Sub-Inspector of Police through the selection conducted by the Tamilnadu Uniformed Services Recruitment Board in the year 1994. He joined the service as Sub-Inspector of Police on 02.06.1997 and while he was serving as Sub-Inspector of Police in Keelapennathur Police Station from 10.06.2003 to 22.04.2004, he was served with the first charge memo dated 30.07.2004 under Rule 3[b] of the Tamilnadu Police Subordinate Services [Discipline and Appeal] Rules, 1955 levelling 3 charges against him. The petitioner submitted a detailed reply to the said charge memo denying the said charges and on receipt of the reply, the said charge memo dated 30.07.2004 was cancelled on the ground of jurisdiction by the order dated 02.09.2004 and on the same day, a fresh charge memo was issued containing the same allegations and the petitioner was also placed under suspension by the DIG of Police, Vellore Range. The petitioner submitted a detailed explanation denying the charges as vague as no dates have been mentioned besides the petitioner was on Highway Patrolling Duty from 03.11.2003 to 30.11.2003 and he was not available during the said period and as such, he has not committed any offence. On receipt of such explanation, the 2nd charge memo dated 02.09.2004 was also cancelled by the order dated 18.11.2004. Thereafter, another fresh charge memo dated 19.11.2004 was issued mentioning the date of occurrence as 14.12.2003. Once again, the petitioner denied the said charges and reiterated his explanations. An enquiry was conducted by the Enquiry Officer and the Enquiry Officer has held that the 2nd charge was not proved and only charges No.1 and 3 were proved.

4. Based on the report of the Enquiry Officer, the Disciplinary Authority / 3rd respondent therein awarded the punishment of reduction in time scale of pay by three stages for three years and the period of reduction shall not operate to postpone his future increments by his order dated 22.06.2005. Aggrieved against the said order, the petitioner preferred an appeal before the Appellate Authority/2nd respondent and the Appellate Authority has arrived at the conclusion that the charges 1 and 3 against the petitioner have been proved by the evidence available on record; but modified the punishment awarded to the effect of reduction in time scale of pay by two stages for a period two years and the period of reduction shall

not operate to postpone his future increments by his order dated 13.07.2005. The petitioner preferred a revision before the 1st respondent / Revisional Authority against the order of the appellate authority/2nd respondent. But the Revisional Authority has confirmed the order of the Appellate Authority / 2nd respondent by his order dated 06.01.2006. Aggrieved against the said orders of the respondents 1 to 3, the petitioner has filed the said writ petition.

5. The learned Single Judge of this Court allowed the said writ petition by order dated 21.12.2012 and accordingly,

[1]The order of the Disciplinary Authority / 3rd respondent dated 22.06.2005 in PR.No.57/2004 awarding the punishment of reduction in time scale of pay by three stages for three years and the period of reduction shall not operate to postpone his future increments;

[2]The order of the Appellate Authority / 2nd respondent dated 13.07.2005 made in C.No.B1/AP.23/2005 modifying the punishment awarded by the Disciplinary Authority [3rd respondent] to one of reduction in time scale of pay by two stages for a period two years and the period of reduction shall not operate to postpone his future increments; and

[3]The order of the Revisional Authority / 1st respondent confirming the order of the Appellate Authority / 2nd respondent by the order dated 06.01.2006 made in RC.No.937/223517/AP.2 [2]/2005''

were set aside. Aggrieved over the same, the appellants are before this Court with this Writ Appeal.

6. Mr.P.S.Sivashanmugha Sundaram, learned Special Government Pleader appearing for the appellants submitted that the date of occurrence was fixed by the Disciplinary Authority based on the evidence of the de facto complainant only, but the learned Single Judge has held that there is no legal evidence in fixing the date. He further submitted that disciplinary proceedings have been initiated against the respondent herein after scrutinizing the Enquiry Report and therefore, there is no inordinate delay as held by the learned Single Judge. Therefore, the learned Special Government Pleader seeks to set aside the order of the learned Single Judge.

7. Per contra, the learned Counsel appearing for the respondent submitted that after carefully considered the rival submissions put forth by either side and after going through all the materials available on record, the learned Single Judge has quashed the impugned orders of the respondents 1 to 3 and there is no infirmity in the same. Therefore, the same has to be upheld by dismissing the present Writ Appeal.

8. Considered the submissions made on either side and We have also carefully gone through the materials placed on record.

9. At the outset, it appears that there were three charge memos issued against the respondent for the irregularities committed by him and subsequently, the 2nd charge memo was cancelled by the order dated 18.11.2004 on the explanation submitted by the respondent stating that he was on patrolling duty from 03.11.2003 to 30.11.2003. Further, the Disciplinary Authority has held that only the charges 1 and 3 are proved and gave his findings on 22.6.2005 awarding the punishment of reduction in time scale of pay by three stages for three years and the period of reduction shall not operate his future increments. Aggrieved over the same, the respondent preferred an appeal before the 2nd respondent and by order dated 22.8.2005, the appellate authority modified the punishment of the Disciplinary Authority to one of reduction in time scale of pay by two stages for a period of two years and the period of reduction shall not operate to postpone his future increments and the same was confirmed by the Revisional Authority by order dated 06.01.2006. Now, the learned Single Judge of this Court has set aside the orders of the appellants herein.

10. Though several grounds have been raised to set aside the order of the learned Single Judge by the learned Special Government Pleader, it appears that one of the reasons set out by the learned Single Judge for quashing the impugned orders i.e. there is no legal evidence in fixing the date of occurrence is incorrect. Likewise, it appears that there is no inordinate delay in issuing the charge memos. Therefore, though several other allegations were levelled against the respondent and on the ground of delay, the learned Single Judge has quashed the charges which are also held to be proved, by taking a lenient view in this matter, we restore the order of the Appellate Authority/ 2nd Appellant herein dated 13.07.2005 made in C.No.B1/AP.23/2005 modifying the punishment awarded by the Disciplinary Authority [3rd respondent] to one of reduction in time scale of pay by two stages for a period two years without cumulative effect.

11. With the above modification, the Writ Appeal is disposed of. No costs. Consequently, connected Miscellaneous Petition is also closed.

Sd/-
Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

TO

1. The Superintendent of Police,
Tiruvannamalai District,
Tiruvannamalai.
2. The Deputy Inspector General of Police,
Vellore Range, Vellore.
3. The Director General of Police,
Tamil Nadu, Chennai-4.

+1cc to Mr.P.MURALI Advocate, S.R.No. 87129
+1cc to the Government Pleader, S.R.No. 86865

W.A.No.368/2017

PVS (CO)
TR(26/12/2017)



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