

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.05.2017

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THE HONOURABLE MR. JUSTICE **S.M.SUBRAMANIAM**

**W.P. No.17591 of 2011
and
M.P.No.1 of 2015**

R.Rajasundar

... Petitioner

VS.

1.Secretary to Government,
Home Department (Police IV A),
Fort St. George, Chennai - 9.

2.Director General of Police,
Law and Order, Chennai - 4.

3.Additional Director General
of Police,
Law and Order, Chennai - 4.

4.Deputy Inspector General of
Police, Trichy Range,
Trichy.

... Respondents

Writ petition filed under Article 226 of the Constitution of India, praying for a Writ of certiorari to call for the records relating to the impugned orders passed by the first respondent herein in

G.O.(2D) No.807 Home (Police IV A) Department dated 03.12.2007, the order of the second respondent herein in his proceedings Rc.No.24256/AP IV(1)/2006 dated 03.09.2006, the order of the third respondent herein in his proceedings Rc.No.AP I(3)/125177/2005 dated 14.11.2005 and the order of the fourth respondent herein in C.No.B2/PR.7/2004 dated 03.03.2005 and quash the same.

For Petitioner : Mr.G.Bala

For Respondents : Mr.Zakir Hussain,
Govt. Advocate

ORDER

The writ petition is filed, challenging the order, imposing the punishment of reduction in time scale of pay by three stages for three years. The period of reduction shall operate to postpone for future increments for three years.

2.Mr.Bala, learned counsel appearing for the petitioner represented that one Mr.Arul, HC 844, who was the co-delinquent suffered from and out of the similar punishment, filed a writ petition in W.P. (MD) No.7412 of 2006 and the Madurai Bench of Madras High Court passed final orders on 26.07.2011 setting aside the order of punishment.

3.The core argument advanced by the learned counsel appearing for the petitioner is that it was a common enquiry in which the documents and witnesses are one and the same. The allegations meted out are also one and the same. Such being the factum of the case and the Madurai Bench of this Court considered the evidence and quashed the order of punishment on the ground that there was no evidence to impose such a penalty against the petitioner, this Court is inclined to consider the same in this writ petition also.

4.The learned Government Advocate appearing for the respondents also could not able to substantiate any difference between the facts in W.P. (MD) No.7412 of 2006 and the present writ petition on hand. Even in the counter, the factual differences are unable to be identified in respect of the facts of these two writ petitions. When there is no serious dispute with reference to the fact that there was a common enquiry and documents and witnesses are one and the same in both the cases, this Court is of the view that the present writ petition deserves merit consideration and paragraph 20 of the judgment rendered in W.P.(MD) No.7412 of 2006 dated 26.07.2011 is extracted hereunder:

"20.In this case, admittedly, except for the F.I.R., which was eventually dropped, there is absolutely no evidence against the petitioner. Therefore, the learned counsel for the petitioner is right in contending that the finding of the enquiry officer is based on no evidence, thus perverse."

5.In view of the facts and circumstances of the case and taking into account the judgment rendered by the Madurai Bench of this Court in W.P.(MD) No.7412 of 2006 dated 26.07.2011, the impugned orders are quashed and the writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

05.05.2017

Index:Yes/No
mmi

To

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Law and Order, Chennai - 4.
- 3.The Additional Director General

of Police,
Law and Order, Chennai - 4.

4.The Deputy Inspector General of
Police, Trichy Range,
Trichy.

mmi/dh

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