

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 24.04.2017

CORAM

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN

WP.No.3761/2012

G.Janarthanan

.. Petitioner

Versus

1. The Director General of Police  
Chennai - 4.
2. The Additional Director General of Police  
Law and Order, Chennai 600 004.
3. The Deputy Inspector General of Police  
Villupuram Range, Villupuram. .. Respondents

Writ petition filed under Article 226 of the Constitution of India praying for a writ of certiorari calling for the records relating to the impugned order of punishment of postponement of increment for two years passed by the 3<sup>rd</sup> respondent herein in his proceedings RO.No.192/2009 in C.No.B2/PR 46/06 dated 18.07.2009 and modified by the 2<sup>nd</sup> respondent herein in his proceedings Rc.No.204904Con.I[1]/2005 dated 15.10.2009 to postponement of increment for a period of one year which shall not operate to postpone his future increments, and confirmed by the 1<sup>st</sup> respondent herein in his proceedings Rc.No.204904/Con.I [2]/2005 dated 04.07.2011 and quash the same.

For Petitioner : Mr.G.Bala

For RR 1 to 3 : Mr.K.Dhananjayan, Spl.GP

ORDER

By consent, the writ petition is taken up for final disposal.

2 The petitioner initially joined the services of the Tamil Nadu Police as the Sub Inspector of Police on 01.03.1996 and claims that as a result of hard, sincere and blemishless service, he had received ten rewards. It is further averred by the petitioner that while working as Sub Inspector of Police, at Kandachipuram Police Station, a trap was laid by the Vigilance and Anti Corruption Detachment Wing, Cuddalore, and he had said to have received a sum of Rs.3000/- by way of illegal

gratification and in this regard, a case in Cr.No.9/2004 for the alleged commission of the offence u/s.7 of the Prevention of Corruption Act, 1988, was registered and records were verified and the Deputy Superintendent of Police of V&AC, Trichy, had seized the Notebooks of the petitioner for the period 15.07.2003, 12.08.2003, 01.01.2011 to 06.01.2004 and on perusal, it was found that the petitioner did not write his Note Books for the period from 12.08.2003 to 31.12.2003, 07.01.2004 to 01.06.2004.

3 It was further found that with regard to the arrest of the accused in 40 cases of Kandachipuram Police Station in Cr.Nos.88, 103 to 113, 115, 116, 120 to 128, 126 to 136, 138 to 148/2004. No arrest card has been given and he has failed to follow the instructions given under section 58 Cr.P.C. Therefore, the petitioner was issued a charge memo dated 05.06.2006, framing the following charges:-

1. Gross neglect of duty in having failed to write official note book from 12.08.2003 to 31.12.2003 and from 07.01.2004 to 01.06.2004 and thus violated the rules of PSO 738.
2. Gross neglect of duty in having failed to report to the Sub Divisional Magistrate, the cases of persons arrested without warrant within the limits of his station of Kandachipuram, whether such persons have been admitted to bail or other wise as per section 58 of the Code of Criminal Procedure 1973 has not reported the arrest of the 40 personnel in Kandachipuram PS Cr.Nos. 88, 103 to 113, 115, 116, 120 to 128, 126 to 136, 138 to 148/2004."

4 The petitioner offered his explanation denying the allegations and not satisfied with the same, an Enquiry Officer was appointed who has recorded the finding that the charges framed against the petitioner have been proved. The Disciplinary Authority, viz., the 3<sup>rd</sup> respondent herein, vide order dated 18.07.2009, imposed the punishment of postponement of increment for a period of two years with cumulative effect and the suspension order passed against him was also revoked and he was allowed to join duty. The petitioner, aggrieved by the order of punishment imposed by the Disciplinary Authority, viz., the 3<sup>rd</sup> respondent herein, filed an appeal before the 2<sup>nd</sup> respondent, who vide order dated 15.10.2009 had modified the same into postponement of increment for a period of one year without cumulative effect. The petitioner preferred a review petition before the 1<sup>st</sup> respondent/Revisional Authority, which

was rejected on 04.07.2011, confirming the order passed by the Disciplinary Authority and challenging the legality of the same, the petitioner came forward to file the present writ petition.

5 The learned counsel for the petitioner would submit that the delinquency in respect of not writing the Notebook as contemplated under the Police Standing Order 738 relates to the year 2003 and the charge memo came to be issued in the year 2006 and the impugned order of punishment was passed by the Disciplinary Authority on 18.07.2009 and insofar as the case registered by the Vigilance and Anti Corruption Department, Trichy, is concerned, the said case ended in acquittal and the State has filed the appeal and the same is pending and in the light of long passage of time, his juniors had a march over and therefore, he is suffering. It is further submission of the learned counsel for the petitioner that considering the nature and responsibility involved, it is extremely difficult to write the Notebook daily and the fact remains that relevant entries have been made in the General Diary maintained in the concerned Police Station and insofar as the 2<sup>nd</sup> charge is concerned, most of the records have been traced out and submitted and in the light of the long passage of time, the sufferings undergone by the petitioner, prays for appropriate orders.

6 Per contra, Mr.K.Dhananjayan, learned Special Government Pleader appearing for the respondents has drawn the attention of this Court to the counter affidavit filed by the respondents and would submit that the petitioner is under obligation to maintain Pocket Diary as well as to report before the Sub Divisional Magistrate with regard to the persons arrested without warrant within the limits of his Station and admittedly, he has failed to perform his statutory duty and the Enquiry Officer had also found that the charges framed against the petitioner are proved and the Disciplinary Authority, after due and proper application of mind, had imposed the punishment of postponement of increment for two years with cumulative effect and on appeal, it was modified to one of postponement of increment for a period of one year without cumulative effect and the same has been confirmed by the Revisional Authority also and in the light of the concurrent findings by the Disciplinary Authority as well as by the Appellate and Revisional Authority, this Court, in exercise of its jurisdiction under Article 226 of the Constitution of India, may not interfere with the same and prays for dismissal of the writ petition.

7 This Court paid its best attention to the rival submissions and also perused the materials placed before it.

8 No doubt, the Police Standing Order 738 contemplates entries to be made in the Pocket Diary without any loss of time and as rightly contended by the learned counsel

appearing for the petitioner that in the light of the difficulty in performing the duty coupled with the work pressure, practically, it may not be possible to write the Pocket Diary immediately and insofar as the second charge is concerned, it is the submission of the learned counsel appearing for the petitioner that most of the records have been traced ; but for the trap, the impugned charge memo would not have been issued and in respect of the case registered by the Vigilance and Anti Corruption Detachment, Trichy, under the provisions of the Prevention of Corruption Act, 1988, the said case has ended in acquittal on account of lack of evidence and the State has filed an appeal against acquittal and it is a well settled position of law that this Court, in exercise of its Appellate jurisdiction may not interfere with the order of acquittal passed by the Trial Court and considering the long passage of time and that the juniors of the petitioner had also marched over him in the form of promotion, prays for some leniency.

9 In the light of the arduous duty, it may not be possible for a Police Officer to write the Pocket Diary then and there and taking into consideration the submissions made by the learned counsel appearing for the petitioner in respect of the 2<sup>nd</sup> charge that most of the records have been traced and handed over and taking into consideration of the fact that the prolonged disciplinary proceedings, this Court is of the considered view that the order of punishment of postponement of increment for a period of one year without cumulative effect, requires modification.

10 In the result, the writ petition is partly allowed and the order passed by the 2<sup>nd</sup> respondent herein in his proceedings Rc.No.204904Con.I[1]/2005 dated 15.10.2009 as confirmed by the Revisional Authority, the 1<sup>st</sup> respondent herein in his proceedings Rc.No.204904/Con.I[2]/2005 dated 04.07.2011, is modified and the petitioner is imposed with the punishment of "Censure". In the light of the modification of the punishment, the respondents are directed to confer monetary and other benefits, if the service record of the petitioner, is otherwise in order. No costs.

-s/d-

Assistant Registrar (CS II)

True Copy

Sub-Assistant Registrar

To

1. The Director General of Police  
Chennai - 4.
2. The Additional Director General of Police  
Law and Order, Chennai 600 004.
3. The Deputy Inspector General of Police  
Villupuram Range, Villupuram.

+1 CC to Mr.G.Bala & Daisy, sr 24937

+1 CC to Govt. Pleader sr 25002

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RV (CO)  
sp/9/5



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