

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.11.2017

CORAM

THE HONOURABLE MR. JUSTICE V.PARTHIBAN

W.P.No.29595 of 2010

Selvam

.. Petitioner

Vs.

- 1.The Deputy Inspector General of Police,
Vellore Range, Vellore.
- 2.The Additional Director General of Police(L&O),
Chennai-4
- 3.The Director General of Police,
Chennai-4.
- 4.The Secretary to Government,
Home (Pol.IVA) Department,
Fort St George,
Chennai-9.

... Respondents

Petition filed under Article 226 of The Constitution of India praying for the issuance of a writ of certiorari to call for the records of the respondents 1 to 4 in connection with the impugned orders passed by them in C.No.B1/PR.21/2006 dated 20.09.2006, RC.No.211021/AP.I(2)/2006 dated 24.11.2006 and D.Dis.No.7740/AP I(2)/2007 dated 15.05.2007 and G.O.(2D) No.118 Home (Pol.IVA) Department dated 06.03.2008 respectively and quash the same.

For Petitioner ... Mr.T.Ayngaraprabhu

For Respondents ... Mr.S.V.Duraisolaimalai, AGP.

ORDER

The petitioner has approached this Court seeking the following relief:

'To issue a writ of certiorari to call for the records of the respondents 1 to 4 in connection with the impugned orders passed by them in C.No.B1/PR.21/2006 dated 20.09.2006, RC.No.211021/AP.I(2)/2006 dated 24.11.2006 and D.Dis.No.7740/AP I(2)/2007 dated 15.05.2007 and G.O.(2D) No.118 Home (Pol.IVA) Department dated 06.03.2008 respectively and quash the same'.

2.The case of the petitioner is as follows:

The petitioner was originally recruited as Sub-Inspector of Police on 02.06.1997. He was promoted as Inspector of Police on 10.06.2009. While the petitioner was working as Sub-Inspector of Police at Elavanasurkottai, Villupuram District during the year 2005, he was issued with a charge memo under Rule 3 (b) of TNPSS (D & A) Rules for certain acts of misconduct. On receipt of the charge memo, the petitioner submitted his explanation denying the charges. However, not satisfied with the explanation offered by the petitioner, an enquiry was conducted and several witnesses were examined and the documents were also marked in the enquiry. The enquiry officer, on a conclusion of enquiry submitted a report on 13.07.2006 holding that all the four charges stood proved.

3. Thereafter, the disciplinary authority, agreeing with the findings of the enquiry report awarded a punishment of reduction in time scale of pay for two years by two stages vide order dated 20.09.2006.

4. As against the order passed by the disciplinary authority namely the first respondent herein, the petitioner preferred an appeal to the second respondent on 09.10.2006. According to the petitioner that the appellate authority namely the second respondent herein without following Rule 6 (3) of the TNPSS (D & A) Rules modified the punishment into one of postponement of increment for one year without cumulative effect by an order dated 24.11.2006 and thereafter a review petition was filed before the third respondent on 10.01.2007 and the same was rejected by order dated 15.05.2007. The petitioner further preferred a memorandum to the Government on 05.06.2007 and the Government in G.O.(2D) No.118 Home (Pol.IVA) Department dated 06.03.2008 rejected the same, as devoid of merits. In the said circumstances, the petitioner has approached this Court seeking to quash the order imposing the penalty on the petitioner by the disciplinary authority/appellate authority and also the rejection orders passed by the respondents 3 and 4.

5. Upon notice, Mr.S.V.Duraisolaimalai, learned Additional Government Pleader takes notice for the respondents and filed a detailed counter affidavit.

6. Mr.T.Ayengaraprabhu, the learned counsel for the petitioner would assail the order of penalty on the ground that it was a case of no evidence and therefore, the findings of the enquiry officer was perverse and flawed. Therefore, he would submit that the imposition of penalty by the disciplinary authority namely, the first respondent herein and further modification of the penalty by the second respondent namely the appellate authority cannot be countenanced both in law or on facts. He would further submit that the authorities who passed

orders, have not followed the mandatory procedure laid down in the TNPSS (D & A) Rules and therefore, the entire disciplinary action is vitiated and required to be interfered with.

7. Per contra, the learned Additional Government Pleader would submit that there was sufficient evidence which was made available in the departmental enquiry both in terms of oral and documentary evidence and therefore, the enquiry officer had rightly held that all the charges were proved against the petitioner. He would further submit that the charges against petitioner were serious in nature but ultimately a punishment imposed on him was only a minor penalty and therefore, the writ petition deserves to be dismissed with cost. He would submit that both the disciplinary and appellate authorities have taken a lenient view in the matter, notwithstanding the establishment of the charges against the petitioner.

8. This Court, after having considered the materials placed on record and the pleadings put forth by the parties, is of the considered view that when the enquiry report is based on sufficient evidence made available in the departmental enquiry and a punishment imposed both by the disciplinary authority and modified by the appellate authority are therefore justified in the circumstances of the case. In fact, this Court is of the view that the punishment ultimately imposed by the appellate authority namely, the postponement of increment for a period of one year without cumulative effect by order dated 24.11.2006 is a minor penalty, considering the gravity of the misconduct which was held to be proved in the duly conducted enquiry. In the said circumstances, this Court is unable to appreciate the basis of challenge in the writ petition. As rightly contended by the learned Additional Government Pleader, the authorities have been extremely lenient in the matter while imposing the impugned penalty and without appreciating the lenient view taken by the authorities, the petitioner herein has approached this Court challenging the minor penalty imposed on him.

9. This Court however, refrain from imposing any cost on the petitioner for his indiscretion in challenging the minor penalty imposed on him considering the nature of gravity of severe charges framed against the petitioner, dismiss the writ petition as being completely devoid of merits and substance.

10. The writ petition is therefore dismissed. No costs.

Sd/-

ASST. REGISTRAR

/TRUE COPY/

SUB ASST. REGISTRAR

To

1.The Deputy Inspector General of Police,
Vellore Range, Vellore.

2.The Additional Director General of Police(L&O),
Chennai-4

3.The Director General of Police,
Chennai-4.

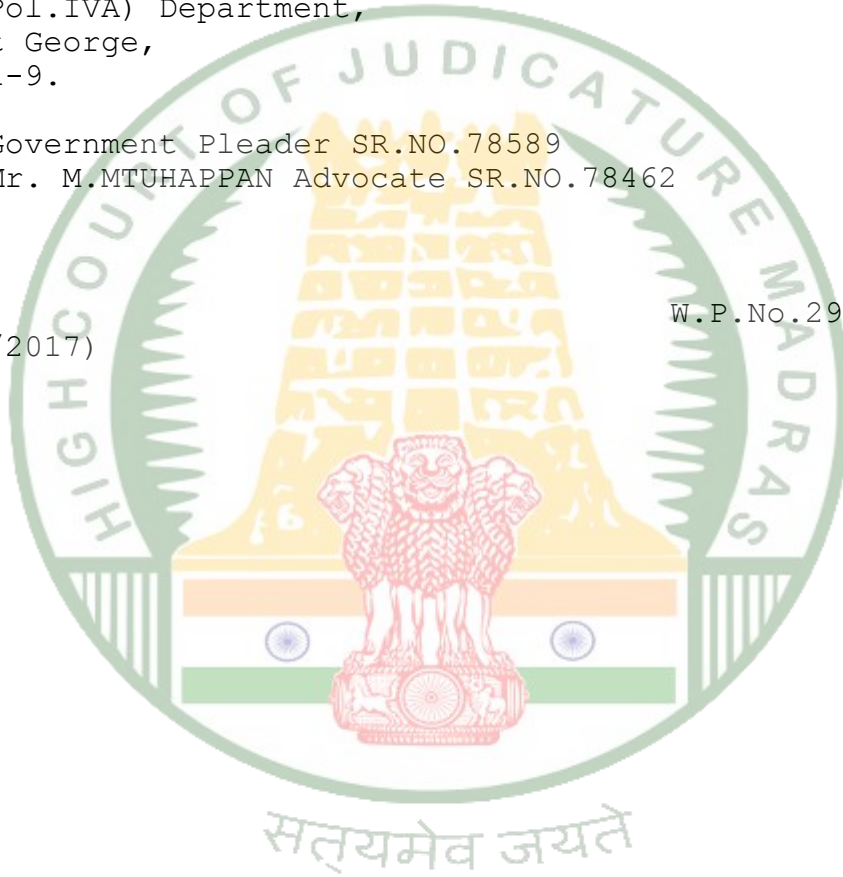
4.The Secretary to Government,
Home (Pol.IVA) Department,
Fort St George,
Chennai-9.

+1 CC to Government Pleader SR.NO.78589

+1 CC to Mr. M.MTUHAPPAN Advocate SR.NO.78462

VC (27/11/2017)

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