



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.04.2017

CORAM :

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**

WEB COPY

W.P.(MD) No.17872 of 2014

and

W.M.P.(MD) Nos.1 and 2 of 2014

N.Nallakannu

... Petitioner

Vs.

1. The Principal Secretary to Government,
Home Department,
Chennai-600 009.

2. The Additional Director General of Police,
Law and order,
Chennai.

3. The Inspector General of Police /
The Commissioner of Police,
Tirunelveli Range, Tirunelveli.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, challenging the impugned order passed by 3rd respondent in PR No.14/13(TIN City) PR No.11/12 (TIN Dist) dated 11.03.2013 and consequential recovery order in C.No.K1/P.R.14/13 (TIN City) P.R.11/12 (TIN Dist) dated 21.03.2013 and quash the same and further directing the respondent to reimburse the recovery amount recovered from the petitioner with all benefits and pass such further.

For Petitioner : Mr.T.Selvan

For Respondents : Mr.C.Selvaraj,
Special Government Pleader.

ORDER

This Writ Petition has been filed by the petitioner to issue a Writ of Certiorarified Mandamus, challenging the impugned order passed by third respondent dated 11.03.2013, and consequential recovery order dated 21.03.2013, and quash the same and further directing the respondent to reimburse the recovery amount recovered from the petitioner with all benefits and pass such further.

2.Heard learned Counsel appearing for the petitioner and the learned Special Government Pleader appearing for the respondents.

<https://hcservices.ecourts.gov.in/hcservices/>

3.The brief facts that are necessary for the disposal of this writ petition are as follows:-



3.1. The petitioner was serving as Inspector of Police, Juvenile Aid Police Unit in Tirunelveli City. While, the petitioner was working in Nanguneri Circle during the year 2009, a case was registered in Cr.No.154 of 2009 under Section 176 of Cr.P.C. based on the complaint of one Mr.Muthu Krishnan, Thalaiyari of Perumpathu Village. In this connection, a charge memo was issued to the petitioner on 21.02.2012, stating that the petitioner failed to alter the case into one under Section 302 of I.P.C., as the medical report clearly indicates that, it is the case of homicidal murder. Despite the serious nature of charges leveled against him, the disciplinary authority imposed a punishment of reduction in time scale of pay by one stage for one year with a further observation that the period of punishment of one year shall operate to postpone his future increment. Since the petitioner retired from service, on superannuation on 31.03.2013, he had to undergo punishment from 12.03.2013 to 31.03.2013. The monetary value equivalent to the unspent period, was directed to be recovered from the petitioner by a consequential proceedings dated 21.03.2013. Though, the petitioner preferred an appeal, the same was dismissed, giving liberty to the petitioner to file Mercy Petition before the Government. The petitioner also, thereafter preferred a mercy petition before the Government. In the meantime, the petitioner preferred the above Writ Petition challenging the order of third respondent dated 11.03.2013 and the consequential recovery order dated 21.03.2013. Further the petitioner has not challenged the order passed by the Appellate Authority. The explanation offered by the petitioner is that the Appellate Authority has given liberty to the petitioner to file a Mercy Petition before the Government and that the mercy petition filed by the petitioner before the Government is pending.

4. The third respondent has filed a detailed counter commenting upon the perfunctory investigation done by petitioner while he was in the Nanguneri Police Station, in Cr.No.154 of 2009 under Section 176 Cr.P.C., and his failure to alter the Section to 302 IPC based on medical report and other admitted facts.

5. Considering the nature of charges and facts admitted by the petitioner himself, this Court finds that the petitioner is guilty of negligence while handling investigation of criminal cases. In such circumstances this Court is not inclined to interfere with the impugned order of punishment imposed by the disciplinary authority dated 11.03.2013 and the recovery of a negligible sum from the petitioner by the consequential order of the third respondent dated 21.03.2013. The charge memo contains the details of the charges against the petitioner. The petitioner's vague explanation, does not inspire this Court to believe his version. The petitioner has not substantiated any irregularity or illegality in the impugned order of punishment.



6. Hence, this Writ Petition is dismissed. No Costs. Consequently, the connected Miscellaneous Petition Nos.1 and 2 of 2014 are closed.

Sd/-

Assistant Registrar (AD-II)

/True copy/

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Sub Assistant Registrar

To

1. The Principal Secretary to Government,
Home Department,
Chennai-600 009.

2. The Additional Director General of Police,
Law and order,
Chennai.

3. The Inspector General of Police /
The Commissioner of Police,
Tirunelveli Range, Tirunelveli.

+1 CC to M/s.T.SELVAN, Advocate, SR No. 51710

+1 CC to THE SPECIAL GOVERNMENT PLEADER, SR No. 51754

CMR/GSP

PSM/RSK/SAR1/13.06.2017/3P/6C

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