



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.04.2017

CORAM :

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

W.P.(MD) No.17873 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: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, challenging the impugned order passed by the 2<sup>nd</sup> respondent in Rc.No.069185/AP 2 (1) 2012 dated 11.01.2013 and consequential recovery order passed by the 3<sup>rd</sup> respondent in C.No.K1/6585/2013 CPO:248/2013 dated 21.03.2013 and quash the same and further directing the respondents to reimburse the recovery amount recovered from the petitioner with all benefits and pass such order.

For Petitioner : Mr.T.Selvan

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

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### ORDER

This Writ Petition has been filed by the petitioner to issue a Writ of Certiorarified Mandamus, challenging the impugned order passed by the second respondent dated 11.01.2013, and consequential recovery order passed by the third respondent dated 21.03.2013, and quash the same and further directing the respondents to reimburse the recovery amount recovered from the petitioner with all benefits and pass such order.

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, and he was given additional charge of Nanguneri Police Station on 14.05.2008. A criminal case was registered on the file of Nanguneri Police Station under Sections 120 (b) r/w 420, 463, 468 and 471 of I.P.C., in Crime No.24/2008 on 27.01.2008, on the basis of the complaint given by one Mr. Robert Jeyakumar. Though the criminal case registered was relating to forgery of document, the petitioner, who was the investigation officer, completed the investigation and filed the charge sheet without any delay. However, the forged document was not sent for expert opinion through Court, despite, it is the practice in normal circumstances.

3.2. It is in the above circumstances, a charge memo was filed and served on the petitioner on 18.10.2009, stating that the petitioner made a perfunctory investigation in Nanguneri Police Station in Crime No.24 of 2008 and that he was guilty of negligence in duty by not sending the original and forged copy of the judgment in I.A.No.739 of 2007 in O.S.No.194 of 1997, dated 30.11.2007 to the Forensic Science Laboratory, for comparison.

3.3. The explanation offered by the petitioner is that the charge memo in Cr.No.24 of 2008 on the file of Nanguneri Police Station was quashed by this Court in a separate proceeding filed by the accused in CrI.O.P.No.5250 of 2009 by order dated 16.09.2009. It is alleged that the petitioner, who is incharge of the investigation, is also responsible for the quashing of the criminal case. During enquiry, it was established that the petitioner is guilty of the charges. Hence, the disciplinary authority awarded punishment of postponement of increment for two years without cumulative effect. It is, this order of punishment, which was challenged by the petitioner before the Appellate Authority. The Appellate Authority also confirmed the order of Disciplinary Authority, and thereafter, a consequential order was also passed for recovery of a sum of Rs.12,272/- from the petitioner.

3.4. The petitioner has preferred this present Writ Petition challenging the impugned order passed by the second respondent dated 11.01.2013, and consequential order of recovery passed by the third respondent in C.No.K1/6585/2013 CPO: 248/2013, dated 21.03.2013.

4. The main ground on which the petitioner's counsel argued in the present Writ Petition is that there is no proper enquiry and the enquiry was conducted in a perfunctory manner without following the principles of natural justice. The impugned charge memo has been issued and the consequential order of recovery has been initiated just before the retirement of the



petitioner and therefore, the whole proceedings suffers from *mala fides* and hence unsustainable.

5. Having regard to the admitted facts before this Court, the Disciplinary Authority has passed the order, having regard to the relevant circumstances. The matter has been decided on the admitted facts and it was held that the petitioner is guilty of charges. The fact that the petitioner was in charge of the investigation during the relevant point of the time is not in dispute. The petitioner has not placed any material before this Court to prove the fact that the petitioner had done something to obtain expert opinion through Court, by sending the documents which are later found to be forged one. While quashing the charge memo, it is also indicated that the petitioner has not acted with due diligence while prosecuting the criminal case. The order of punishment imposed on the petitioner is in accordance with law and it is in order. This Court is not inclined to interfere with the order of punishment imposed by the disciplinary authority and recovery of a negligible sum from the petitioner.

6. Hence, this Writ Petition is closed. The impugned order passed by the second respondent dated 11.01.2013, and the consequential recovery order passed by the third respondent dated 21.03.2013 stands confirmed. Consequently the connected W.M.P. (MD).Nos.1 and 2 of 2014 are closed. No Costs.

Sd/-

Assistant Registrar (AD-II)

/True copy/

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

GSP/CMR

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

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