



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 14.02.2017

CORAM :
THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN
W.P (MD) No.20900 of 2014
and
M.P (MD) No.1 of 2014

P.J.Janardhanan

... Petitioner

vs.

- 1) The Director General of Police,
O/o Director General of Police,
Chennai-600 004.
- 2) The Additional Director General of Police,
Law & Order,
Chennai-600 004.
- 3) The Deputy Inspector General of Police,
Dindigul Range,
Dindigul.
- 4) The Deputy Inspector General of Police,
Ramanathapuram Range,
Ramanathapuram.
- 5) The Superintendent of Police,
Dindigul District,
Dindigul.
- 6) The Superintendent of Police,
Ramanathapuram District,
Ramanathapuram.
- 7) The Additional Superintendent of Police,
Headquarters,
Dindigul District.

... 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 pursuant to the impugned order passed by the 2nd Respondent in R.C No.68544/AP.2(3)/2014 dated 29.09.2014 and consequential order passed by the 5th respondent in D.O.1404/2014 in C.No.F1/P.R No.41/2008 u/r 3(b) of TNPSS (T&A) Rules 1955 dated 20.10.2014 and quash the same.

For Petitioner : Mr.K.Mahendran

<https://hcservices.ecourts.gov.in/hcservices/>
For Respondents : Mr.K.P.Krishnadass
Government Advocate



ORDER

The prayer in this writ petition is for issuance of a Writ of Certiorari, to call for the records pursuant to the impugned order passed by the 2nd Respondent in R.C.No.68544/AP.2(3)/2014 dated 29.09.2014 and consequential order passed by the 5th respondent in D.O.1404/2014 in C.No.F1/P.R No.41/2008 u/r 3(b) of TNPSS (D&A) Rules 1955, dated 20.10.2014 and quash the same.

2.The petitioner is working as Inspector of Police, Law and Order, Vadamadurai Police Station, Dindigul District and that a complaint has been lodged by one Basheer Ahamed that while he was travelling in a Car along with his friend Bindhu, Sathiamoorthy and driver namely, Velmurugan, the petitioner intercepted his Car and attacked them and brought those persons to a private lodge at Dindigul and demanded hefty sum, failing which, a case will be registered against them under NDPS Act. A case was registered against the petitioner in Crime No.10/2008 on 04.03.2008 for the offences under Sections 120(b), 342, 365, 419, 384, 392 and 506(i) of IPC and ultimately, the Criminal Court acquitted him of the charges. In the meantime, the petitioner was faced with disciplinary proceedings under Rule 3(b) of the Tamil Nadu Police Subordinate Service (Discipline & Appeal) Rules, containing three counts of charges which are extracted below:-

'Charge No. I

Gross misconduct in having reallocated duties to Police Team consisting of Trainee Sub Inspector of Police, Tr.Senthilkumar, HC 1389, Ravichandran, Gr.I PC 878 Amirtharaj and one Jeyachandran a member of FOP who were doing duties at Thangammapatti, Check Post on 23.02.2008 night by directing them orally to proceed to Vadamadurai Bazarr immediately with an ulterior intention to indulge in vehicle check by himself

Charge No. II

Criminal misconduct in having conducted vehicle check by hatching a plan by bringing civil persons for his assistance and on the pretext of vehicle check intercepted one Tata Sumo car of TN 67A 2288 on 23.02.200 at 01.00 Hrs at Thangammapatti Checkpost directed the inmates to get down wherein (1) Bazeer Ahamed (2) Bindu an Young Lady (3) Sathiamoorthy were traveling with driver Velmurugan and tokout hand bag of the lady and threatened them that it contained heroin and assaulted them by demanding Rupees four crores and also detained them in Gomath Lodge.

Charge No. III

Highly reprehensible conduct and misdemeanour in having taken the lady Bindhu by separating her to Gomath Lodge on 23.02.2008 night, stayed with her and indulged in lustful act and thereby involved in criminal case in Dindigul DCB Cr.No. 10/2008 u/s 342, 364(A),



3.The petitioner gave a detailed explanation denying the charges and submitted that he has not committed any misconduct muchless the one framed against him and that the criminal case against him already ended in acquittal. Initially, there was an interim order with regard to disciplinary proceedings during the pendency of the criminal case, but thereafter, after acquittal, departmental enquiry was conducted in full-fledged manner and the charges have been held to be not proved. The disciplinary authority has also taken into account the order passed by the Criminal Court. Suo motu revision was ordered by the 2nd respondent whose order is under challenge in this writ petition.

4.The main ground of attack in the writ petition is that even though the 2nd respondent/revisional authority has got powers to issue show cause notice to review the punishment, he cannot come to a conclusion that the petitioner has committed a grave misconduct and that the charges have been held to be proved and thereafter, sought for explanation to the said show cause notice. According to him, it is not a show cause notice at all and it is an order of punishment and the authority has already prejudiced.

5.Even though serious charges have been made against the petitioner, this Court is inclined to interfere with the impugned orders in this writ petition only on the ground that in the show cause notice, it is mentioned as follows:-

'Hence, by preponderance of probability I held the charges as proved.'

6.If the above sentence is not there, this Court would not have interfered with the impugned orders. From that sentence, it appears that the the revisional authority has pre-judged the issue. Hence, this Court is inclined to interfere with the impugned orders. Accordingly, the impugned orders are set aside and the matter is remitted to the 2nd respondent to issue a fresh show cause notice and thereafter pass fresh orders in accordance with the rules.

In the result, this Writ Petition is allowed to the extent mentioned supra. No costs. Consequently, M.P(MD)No.1 of 2014 is closed.

Sd/-

Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

1)The Director General of Police,
O/o Director General of Police,

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Dindigul.

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Ramanathapuram District,
Ramanathapuram.

7)The Additional Superintendent of Police,
Headquarters,
Dindigul District.

+1 cc to Mr. K.MAHENDRAN ,Advocate, Sr.No: 8126

+1cc to M/S Special Government Pleader, Sr No. 8341

Nbi

KK/JM/SAR2:23.02.2017:4P/10C

W.P (MD) No.20900 of 2014
14.02.2017