



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 21.09.2017

CORAM :

THE HONOURABLE MR.JUSTICE T.RAJA

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WP(MD)No.14257 of 2017

K.S.Sakthivel

... Petitioner

vs.

- 1) The Director General of Police,
Tamilnadu Police Headquarters,
Mylapur, Chennai-04.
- 2) The Additional Director General of Police, [L&W]
Tamilnadu Police Headquarters,
Mylapur, Chennai-04.
- 3) The Deputy Inspector General of Police,
Tirunelveli Range,
Tirunelveli.
- 4) The Superintendent of Police,
Kanyakumari.

... Respondents

Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the order passed by the 1st respondent in Rc.No.53749/AP II [1] 2017, dated 10.06.2017, refusing to entertain the revision against the order passed by the 2nd respondent in his proceedings Rc.No. 48586/AP.2(1)/2012 dated 20.03.2013 and the order passed by the 3rd respondent in his proceedings P.R.No.01/2012, Thirunelveli Range/ P.R.No.149/2011 Kanyakumari District dated 29.02.2012 and quash the same and direct the respondents to reinstate the petitioner in service with all benefits.

For Petitioner	: Mr.Arul Vadivel Sekar for Mr.S.R.Sureshkumar
For Respondents	: Mr.D.Muruganantham Additional Government Pleader

ORDER

The petitioner has come to this Court challenging the correctness of the impugned order dated 10.06.2017 passed by the 1st respondent on the ground that when the petitioner preferred appeal against the order of punishment of dismissal dated



29.02.2012, the 1st respondent who was in the capacity of Additional Director General of Police, Law & Order, Chennai, heard the appeal and passed the impugned order dated 20.03.2013 giving a finding that the delinquency was amply proved beyond doubt and therefore the disciplinary authority imposed the punishment of dismissal from service, hence, the same should not be interfered with. Having heard the appeal, when the petitioner filed revision dated 04.10.2013 along with connected papers the 1st respondent who should not have sat in appeal against his own order, contrary thereto, sitting on appeal against his own order, rejected the revision holding that while he was holding the post of Deputy General of Police, Head of the Department, he had rejected the appeal against the punishment in P.R.No.149/2011 passed under Rule 3(b) of the Tamil Nadu Police Subordinate Service (Discipline and Appeal) Rules, 1955, hence, it was not proper to entertain his petition. The relevant portion is given as under:-

'On perusal of the records, it is seen that in the reference first cited, I have in the capacity of Additional Director General of Police, Law & Order, Chennai passed an order in an appeal against the punishment in P.R.No.149/2011 u/r 3(b) initiated against you. As I am now holding the post of DGP/HOD, it is considered not appropriate to entertain your petition against the order passed by me in the capacity of Additional Director General of Police, Law & Order, Chennai.'

2.Perusal of the same clearly shows that the 1st respondent having heard the petitioner's appeal and passed an order rejecting his appeal, he should have recused himself from hearing the revision.

3.The learned Additional Government Pleader appearing for the respondents submitted that the petitioner cannot seek any prayer to entrust his revision petition before another Director General of Police as there is no bar or authority for any Director General of Police other than the Director General of Police(Law and Order) to hear the revision.

4.Although I agree with the said submission of the learned Additional Government Pleader, in the facts of the present case, this Court applying the rule no one can go without any remedy, directs the petitioner to present fresh revision petition to the Secretary to Government, Home Department, enclosing the copy of the dismissal order, order passed in appeal, order passed in revision petition and also the order passed by this Court in the present writ petition within a period of ten days from the date of receipt of a copy of this order and thereafter, it is for the Secretary to Government, Home Department, to consider the same, afford opportunity of personal hearing to the petitioner and then



pass appropriate orders within eight weeks thereafter. For the reasons mentioned above, the impugned order is set aside and the Secretary to Government, Home Department is directed to rehear the same on merits.

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With the above direction, this Writ Petition is disposed of.
No costs.

Sd/-

Assistant Registrar (RTI)

/True copy/

Sub Assistant Registrar

To

- 1) The Director General of Police,
Tamilnadu Police Headquarters,
Mylapur, Chennai-04.
 - 2) The Additional Director General of Police, [L&W]
Tamilnadu Police Headquarters,
Mylapur, Chennai-04.
 - 3) The Deputy Inspector General of Police,
Tirunelveli Range,
Tirunelveli.
 - 4) The Superintendent of Police,
Kanyakumari.
- + 1 CC TO MR.S.R.Sureshkumar, ADVOCATE IN SR No.80319
nbi
MK/MR KKR/SAR-1/11.10.2017/3P/6C

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