

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 13.02.2018

CORAM

THE HONOURABLE MR. JUSTICE T.RAJA

W.P.No.3052 of 2018 and
W.M.P.No.3729 of 2018

M.Manikandan

...Petitioner

Versus

1. The Director General of Police,
Mylapore, Chennai-600 004.
2. The Additional Director General of Police
(Law and Order),
Mylapore, Chennai-600 004.
3. The Deputy Inspector General of Police,
Trichy Range, Trichy.
4. The Superintendent of Police,
Ariyalur District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records connected with the Proceedings issued in Na.Ka.No.P1/Tha.Pa.No.30/15 dated 23.03.2016 passed by the 3rd respondent and RC.No.158318/AP.IV(1)/2017 dated 01.12.2017 passed by the 1st respondent and D.O.No.50/2018 C.No.A3/App-01/2017 dated 24.01.2018 passed by the 4th respondent and quash the same.

For Petitioner : Mr.S.Ilamvaludhi

For Respondents : Mr.R.S.Selvam,
Government Advocate

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O R D E R

The Present Writ Petition is directed against the impugned Proceedings dated 23.3.2016 passed by the Deputy Inspector General of Police, Trichy Range, Trichy, the 3rd respondent herein which was confirmed and modified by the 1st respondent, namely, the Director General of Police, Mylapore, Chennai-4, in RC.No.158318/AP.IV(1)/2017 dated 01.12.2017 and D.O.No.50/2018 C.No.A3/App-01/2017 dated 24.01.2018 of the 4th respondent.

2. Mr.S.Ilamvaludhi, learned Counsel appearing for the petitioner assailing the impugned order contended that when the petitioner was working only as a Driver attached with the Inspector of Police, Traffic Ariyalur received a Charge Memo on 24.12.2014 alleging that he had received Rs.2,000/- from one Krishnamurthy and returned his permit and challan without issuing any receipt. Denying the said allegation, the petitioner submitted a detailed explanation. However, he was departmentally prosecuted as per the procedure envisaged under Rule 3(b) of the Tamil Nadu Police Subordinate Service (Discipline and Appeal) Rules, 1955. Finally, the departmental proceedings entered with the punishment of postponement of his next increment for three years which shall operate to postpone his future increments by the 1st respondent.

3. The learned Counsel for the petitioner further submitted that while the petitioner was one of the delinquents before the 4th respondent, a similar charge memo has also been issued against one Manoharan under Rule 3(b) of the Tamil Nadu Police Subordinate Service (Discipline and Appeal) Rules, 1955. When both the petitioner and the said Manoharan were prosecuted departmentally, the petitioner was singled out with the imposition of punishment of postponement of next increment for three years which shall operate to postpone his future increments. On the other hand, Mr.Manoharan, who was issued with a similar Charge Memo with two charges, for the reasons best known to the Appointing Authority, namely, the 4th respondent, he was only imposed with a lighter punishment of censure. Therefore, Mr.Manoharan did not think it fit to prefer any appeal. On the other hand, the petitioner having suffered serious and major punishment which was not imposed against the co-delinquent, he alone has preferred the appeal before the 1st respondent. Even without considering the fact that the Deputy Inspector General of Police, Trichy Range, Trichy, has arbitrarily imposed the punishment showing some favour in favour of Manoharan who was issued with a charge memo with two charges whereas the petitioner was issued with a charge memo with one charge, the 1st respondent has wrongly confirmed the findings of the 3rd respondent and modified the punishment into that of postponement of increment for a period of two years which shall operate to postpone his future increments from the date of original orders. Therefore, such a step-motherly treatment cannot be shown either by the 3rd respondent or by the 1st respondent. In view thereof, the impugned order is liable to be interfered with, it is contended.

4. Heard the learned Government Advocate appearing for the respondents.

5. This Court hardly finds any reason to interfere with the impugned order of the 3rd respondent which was confirmed and

modified by the 1st respondent. It is a settled legal proposition that Article 14 is not meant to perpetuate illegality and it does not envisage negative equality. Thus, even if some other similarly placed persons have been granted the same benefit inadvertently or by mistake, such order does not confer any legal right on the petitioner to get the same relief (Vide Chandigarh Administration v. Jagjit Singh, Yogesh Kumar v Government of NCT of Delhi, Anand Buttons Limited vs. State of J &K, Upendra Narayan Singh and Union of India vs. Kartick Chandra Mondal), more particularly, when both the petitioner and Manoharan suffered a common enquiry initiated under Rule 3(b) of the Tamil Nadu Police Subordinate Service (Discipline and Appeal) Rules, 1955, no doubt the petitioner was issued with a charge memo containing a single charge whereas the said Manoharan was issued with a charge memo having two charges. Since the 3rd respondent has imposed the punishment of Censure against Mr. Manoharan, it is not known on what basis, the 3rd respondent has come to the conclusion to impose only a lesser punishment of Censure to the said Manoharan. Therefore, this Court is not inclined to interfere with the order of punishment imposed by the 3rd respondent which was modified by the 1st respondent.

6. In the result, the Writ Petition fails and the same is accordingly dismissed. No costs. Consequently, connected Miscellaneous Petition is also closed.

Sd/-
Asst.Registrar (CS VII)

/true copy/

Sub Asst. Registrar

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To

1. The Director General of Police,
Mylapore, Chennai-600 004.
2. The Additional Director General of Police
(Law and Order),
Mylapore, Chennai-600 004.
3. The Deputy Inspector General of Police,
Trichy Range, Trichy.

4. The Superintendent of Police,
Ariyalur District.

+ 1 cc to Mr.S.Ilamvaludhi Advocate, SR.11264
+ 1 cc to The Govt.Pleader, SR.11312

W.P.No.3052 of 2018

nr 07/03/2018



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