

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.01.2018

CORAM:

THE HON'BLE MR. JUSTICE T. RAJA

W.P. No.730 of 2018
and WMP No.891 of 2018

S.Karthikeyan

Petitioner

vs.

1. The Deputy Inspector General of Police
Madurai Range, Madurai.
 2. The Additional Director General of Police (L&O)
Chennai 4.
 3. The Director General of Police
Tamil Nadu, Chennai 4.
- Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorari calling for the records of the 1st respondent in connection with the impugned order passed in PR 13/2013 (RC No.A2/1888/96/2015 dt.21.11.15, confirmed by the 2nd respondent in his RC No.148258/API(2)/2016 dt 28.1.17 and further confirmed by the 3rd respondent in his RC No.115048/API(2)/2017 dt. 5.8.17 and quash the same.

For petitioner : Mr.M.Muthappan

For R1 to R3 : Mr.V.Jayaprakash Narayanan
Special Government Pleader

ORDER

This Writ Petition has been filed challenging the punishment order dated 21.11.2015 passed by the Deputy Inspector General of Police, Madurai Range, the first respondent herein, which was confirmed by order dated 28.01.2017 passed by the Additional Director General of Police (L & O), Chennai, the second respondent herein and the order dated 05.08.2017 passed by the Director General of Police, the third respondent herein.

2. The learned counsel for the petitioner, attacking the impugned orders, would submit that while the petitioner was serving as Inspector of Police in Chidambaram Town Police Station from 09.10.2010 to 13.10.2011, he was unable to relocate his family to Chidambaram Town; therefore, he was staying in an hotel, viz., R.K.Residency in Chidambaram Town; only on 20.09.2011, he was allotted with a quarters at Chidambaram; on the heels of allotment of quarters, he paid rent to the tune of Rs.1,75,000/- to Balakrishnan, the then Accountant of R.K. Residency.; but, unfortunately, the said Balakrishnan failed to bring his payment into the account and he also subsequently left the job without accounting the said money; taking note of the mistake committed by the said Accountant, Balakrishnan, the owner of R.K.Residency made a complaint to the Superintendent of Police alleging that the petitioner on being approached for payment of rent, threatened not only the Manager of R.K.Residency with dire consequences, but also the owner of the lodge, viz., R.K.Residency; pursuant to the complaint given by the owner of R.K.Residency in Chidambaram Town, the petitioner was prosecuted departmentally with the issuance of a charge memo under Rule 3(b) of the Tamil Nadu Police Subordinate Service (Discipline and Appeal) Rules, stating that while he was staying in R.K.Residency allegedly from 09.10.2010 to 13.10.2011, misusing his authority, failed to make payment of rent; while he was approached by the Manager of R.K.Residency, he was threatened with dire consequences and thereby committed irreprehensible conduct, which is unbecoming of a Government servant.

3. Further, according to the learned counsel for the petitioner, on receipt of the said charge memo dated 11.02.2013, the petitioner submitted his detailed explanation stating that after he was allotted with the quarters in Chidambaram Town, he has paid all the money to one Balakrishnan, who was serving as Accountant in R.K.Residency at the relevant point of time, but, unfortunately, he had not brought into account the rent paid by the petitioner; but, the explanation submitted by the petitioner was rejected and finally, an Enquiry Officer was appointed who also, after completing the enquiry, submitted a report holding that the charges levelled against the petitioner are proved; a copy of the Enquiry Report holding the charges proved against the petitioner was also furnished to the petitioner on 06.03.2015, for which also, the petitioner submitted his detailed further representation on 13.07.2015; on receipt of the same, the disciplinary authority, accepting the report of the Enquiry Officer, imposed the punishment of stoppage of increment for two years without cumulative effect and further stated that the same would not affect his pensionary benefits. Aggrieved by the order of punishment dated 21.11.2015 imposing stoppage of increment for two years without cumulative effect, a statutory

appeal was preferred before the second respondent, who, without taking into account the points raised in the appeal grounds, rejected the appeal as against which the petitioner went before the Director General of Police with Review Application on 19.06.2017, to review the order passed by both the disciplinary authority and the appellate authority; considering the Review Application, the Director General of Police, third respondent herein, modified the punishment of stoppage of increment for two years without cumulative effect into one of stoppage of increment for one year which shall not operate to postpone his future increments from the date of the original order.

4. Assailing the approach adopted by the third respondent, the learned counsel for the petitioner submitted that during the course of enquiry, when the petitioner has taken a plea that the entire total rent of Rs.1,75,000/- was paid to the then Accountant Balakrishnan, no care was taken to examine the said Balakrishnan, which would clearly show that there was an infirmity in the approach adopted by the Enquiry Officer; without considering the fact that the said Balakrishnan should be enquired into the allegations, the Enquiry Officer has wrongly come to the conclusion that the petitioner has miserably failed to pay the rent for the period commencing 09.10.2010 to 13.10.2011 to the tune of Rs.1,75,000/- and the Enquiry Officer has come to the further conclusion that the petitioner has threatened the complainant with dire consequence for demanding the rent; further, the disciplinary authority has imposed the punishment without taking into account any of the pleas taken by the petitioner before the Enquiry Officer and also in his written explanation subsequent to the Enquiry Report and the appellate authority also, in a brief order, has confirmed the order passed by the first respondent; moreover, the impugned order passed by the Director General of Police modifying the punishment into one stoppage of increment for one year which shall not operate to postpone his future increments from the date of original order passed by the first respondent shows that the case of the petitioner has been partly accepted; therefore, the impugned orders are liable to be interfered with.

5. The learned Special Government Pleader placed his submissions supporting the impugned orders.

6. When the petitioner was posted at Chidambaram Town Police Station and stayed in an hotel called R.K.Residency, located in Chidambaram from 09.10.2010 to 13.10.2011, his peculiar defence in his explanation dated 10.11.2014 stating that he had paid the entire amount of his rent for the aforesaid period in one lumpsum to the tune of Rs.1,75,000/- is wholly unbelievable and unacceptable. When the petitioner is serving as an Inspector of Police, it is not known as to how he can take a plea that he has

paid the said amount in a single instalment for his long stay commencing from 09.10.2010 to 13.10.2011, i.e., for a period of one year. That itself can be construed as a clear delinquency, for which, the first respondent has rightly imposed the punishment of stoppage of increment for two years without cumulative effect. In the appeal, although the second respondent has rightly confirmed the said order, the third respondent, in my considered opinion, ought not to have modified the punishment by traversing beyond the scope of review, in the light of the fact that the petitioner could not make out his case in the enquiry and also the fact that the Enquiry Officer's report has been accepted by the disciplinary authority.

In view of the foregoing discussion, the Writ Petition fails and the same is dismissed as being bereft of merits. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

gms

To

1. The Deputy Inspector General of Police, Madurai Range, Madurai.
2. The Additional Director General of Police (L&O), Chennai 4.
3. The Director General of Police, Tamil Nadu, Chennai 4.

+1cc to Mr.M.Muthappan, Advocate, S.R.No.3455

+1cc to the Government Pleader, S.R.No.4629

GMI (CO)
CS/07/03/18

W.P. No.730 of 2018

WEB COPY