

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.08.2018

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH  
AND  
THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

W.A.Nos.1618 and 1619 of 2018 and  
C.M.P.Nos.13046 and 13047 of 2018

A.Khaja Khalendar ... Appellant in W.A.No.  
1618 of 2018

R.Daniel ... Appellant in W.A.No.  
1619 of 2018

-vs-

1.The Director General of Police,  
Mylapore, Chennai-600 004.

2.The Joint Commissioner of Police,  
East Zone, Egmore,  
Chennai-600 008.

... Respondents in both the  
appeals

Appeals filed under Clause 15 of the Letters Patent, against  
the order passed by this Court in W.P.Nos.4509 and 4510 of 2018  
respectively, dated 16.03.2018.

Prayer in W.P.Nos.4509 and 4510 of 2018:-

Petitions filed under Article 226 of the Constitution of  
India, to issue a Writ of Certiorarified Mandamus, calling for  
the entire records relating to the impugned order passed by the  
1st respondent in his proceedings Rc.No.200443/Con.I(2)/2010  
dated 22.04.2017 and quash the same and consequently direct the  
respondents to disburse gratuity Terminal Benefits like  
encashment of earned leave encashment of unearned leave on  
private affairs and salary for the period of suspension by  
treating the suspension period as duty period for all purpose to  
the petitioners.

For Appellants :: Mr.K.Ravi Anantha Padmanaban

For Respondents :: Mr.P.S.Sivashanmugasundaram,  
Spl.GP

COMMON JUDGMENT  
(Made by HULUVADI G.RAMESH, J.)

The appellants, while they were serving as Sub Inspector of Police at Poonamallee in Traffic Investigation Wing, were alleged to have demanded a sum of Rs.2,000/- as bribe to remove a lorry from the highway road, which met with an accident. The criminal case filed against the appellants before the learned Special Judge and Chief Judicial Magistrate, Thiruvallur in Special Case No.20 of 2010, ended in acquittal. No appeal was filed against the said judgment. But the appellants were suspended on 28.05.2013 and 30.05.2014 respectively and the departmental proceedings ended with a punishment of 'censure'.

2.Challenging the minor punishment of 'censure' awarded against them by the first respondent in his proceedings in Rc.No. 200443/Con.I(2)/2010 dated 22.04.2017, they have filed writ petitions before this Court in W.P.Nos.4509 and 4510 of 2018. The learned single Judge, considering the facts and circumstances of the case, disposed of the writ petitions with a direction to the first respondent to issue a fresh Charge Memo under Rule 3(b) of the Tamil Nadu Police Subordinate Services (Discipline and Appeal) Rules, 1955 and proceed with the departmental enquiry, by order dated 16.03.2018. Challenging the said order, the appellants are before this Court with these appeals.

3.The learned counsel for the appellants has submitted that in the criminal trial itself, it has been brought on record by the prosecution witnesses that the alleged amount of Rs.2000/- was for conveyance charges payable to a private recovery van operator and not for the appellants and this aspect has not been considered at all by the learned single Judge. He further submitted that the Trial Court has passed an order of honourable acquittal on merits which would show that the entire allegations against the appellants are baseless and the question of demand of the bribe money by the appellants does not arise at all. Finally, the learned counsel submitted that in view of the present stage of the case, certain of the terminal benefits have not been disbursed to the appellants.

4.Heard the learned Special Government Pleader appearing for the respondents on the submissions made by the learned counsel for the appellants and perused the materials available on record.

5.It appears that the criminal case filed against the appellants in respect of demand of a bribe amount of Rs.2000/- by the appellants, ended in acquittal by the Criminal Court and no appeal was filed against the judgment passed by the Criminal Court. It is not a case of demand and acceptance. Further, the

departmental enquiry ended in a minor punishment of 'censure'. It is also seen that the complaint filed against the appellants itself has been retracted. But the learned single Judge has taken a stand that a fresh charge memo has to be issued to the appellants. It also appears that the appellants have got retired and certain of their terminal benefits have not been disbursed to them.

6.Considering the facts and circumstances of the case, we are of the view that the order passed by the learned single Judge directing the authorities to issue a fresh charge memo, has to be set aside and accordingly the same is set aside, and the writ appeals are allowed with a direction to the respondents to release the entire terminal benefits to the appellants, within a period of three months from the date of receipt of a copy of this judgment. No costs. Consequently the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

KM

To

1.The Director General of Police,  
Mylapore, Chennai-600 004.

2.The Joint Commissioner of Police,  
East Zone, Egmore,  
Chennai-600 008.

+2cc to Mr.K.Ravi Anantha Padmanaban,Advocate,S.R.No.57975,57976  
+1cc to the Government Pleader, S.R.No.57871

W.A.Nos.1618 and 1619  
of 2018 and  
C.M.P.Nos.13046 and  
13047 of 2018

AD(CO)  
CS/11/09/18

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