

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.07.2018

CORAM

THE HON'BLE Mr. JUSTICE M.DHANDAPANI

W.P.No.20055 of 2007
and M.P.No.2 of 2007

S.Prabhakaran

... Petitioner

Vs

1.The Joint Commissioner of Police,
North Zone,
Chennai-600 011.

2.The Deputy Commissioner of Police,
Pulianthope Police District,
Chennai-600 039.

... Respondents

PRAYER: Writ Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Certiorari to call for the records relevant to the order in PR.No.20/06 U/R 3 (b) PR.No.(2) dated 04.12.2006 passed by the 2nd respondent which was modified in Appeal No.Rc.No.Appeal 01/PR.N(1)/2006 dated 06.03.2007 passed by the first respondent and quash the same as illegal, improper, unreasonable, arbitrary, against the rule of law and against the principles of Natural Justice.

For Petitioner : Mr.B.Gopalakrishnan

For Respondents: Mr.K.Ravikumar,
Additional Government Pleader

O R D E R

The petitioner filed this writ petition challenging the order dated 04.12.2006 passed by the 2nd respondent wherein the petitioner was imposed with the punishment of increment cut with cumulative effect for three years, which was modified in Appeal RC No.Appeal01/PR N (1)/2006 dated 06.03.2007 passed by the 1st respondent wherein, the punishment was modified by the Appellate Authority to a punishment of one year.

2. The case of the petitioner is that after rendering 31 years of service, the petitioner was posted at Head constable in Law and order department at Thiru Vi Ka Nagar Police Station. On 15.11.2005, when the petitioner and one Mr.Sukumar, Home Guard was on night patrol duty at Sembium, Madhavaram High Road,

Indian Piston Check post, Thiru Francise Pandian, Sub-Inspector of Police, Law and Order, K-9 Thiru.Vi.Ka Nagar @ 1.35 hours checked our duty and the Assistant Commissioner of Police at about 3.15 am conducted a surprise check and wantonly with an ulterior motive, he had put the checking time as 2.55am and created a false records wherein it has been stated the petitioner has received illegal gratification from one Mr.Selvam and Moorthy and relieved from the patrol duty on the same day and one Thiraviam, Head constable was posted in his place. Charges were framed and enquiries were conducted and ultimately, the petitioner was imposed a punishment of increment cut with cumulative effect for three years. Thereafter, the petitioner filed an WP No.1367 of 2007, wherein this Court dismissed the writ petition with an observation to file an appeal before the first respondent. Based on the order of this Court, the petitioner preferred an appeal before the 1st respondent, wherein the order of punishment was reduced to one year. The grievance of the petitioner is that the 1st respondent ought to have set aside the entire order of punishment and without doing so, the 1st respondent has passed an order in R.C.No.Appeal 01/PR.N(1)/2006 dated 06.03.2007, modifying the punishment imposed by the 2nd respondent. Aggrieved by the said order of the 1st respondent, the petitioner came forward to file this writ petition.

3. The learned counsel appearing for the respondents has drawn the attention of this Court to the counter affidavit and would submit that Mr.Sekar, The Assistant Commissioner of Police, Sembium Range while crossing the India Piston Check from Moolakadi at about 2.55 hours, found that the petitioner demanded Rs.50/- from one selvam and Moorthy and accepted the amount through Home Guard for allowing him to go through the check post along with the buffaloes and he was caught red handed and hence, prays for dismissal of this writ petition.

4. Considering the facts and circumstances, especially the fact that the petitioner demanded a bribe from two persons, so also, the Appellate Authority reduced the punishment from two year increment cut to one year, this Court while exercising its power under Article 226 of constitution of India, not inclined to interfere with the order of the Appellate Authority that too in the corruption case. Accordingly, this writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

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To

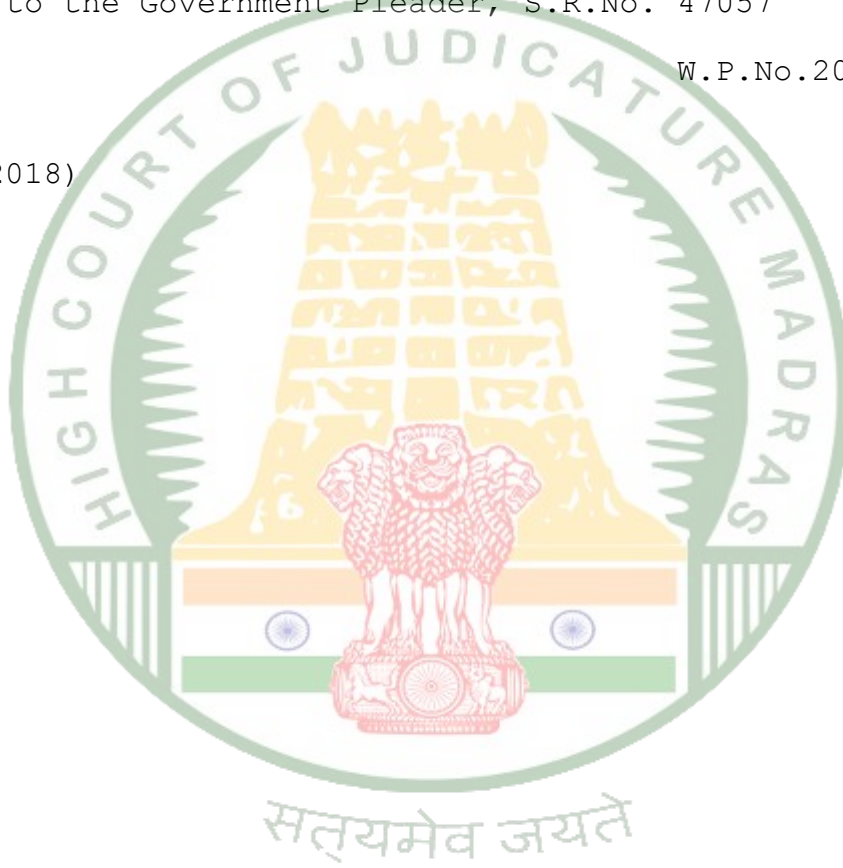
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+1cc to the Government Pleader, S.R.No. 47057

W.P.No.20055 of 2007

MN(CO)
TR(21/08/2018)



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