

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.04.2018

CORAM

THE HON'BLE MR.JUSTICE M. DHANDAPANI

W.P.No. 24690 of 2006

M.P.Nos.1 & 2 of 2006

P. Raj

...Petitioner

Vs.

1. The Chief Secretary,
Government of Tamil Nadu,
Fort St. George,
Chennai - 9.

2. The Additional Director of Prisons,
Government of Tamil Nadu,
Egmore, Chennai - 8.

3. The Deputy Inspector General of Prisons,
Madurai Range,
Madurai.

4. The Superintendent of Central Prisons,
Palayamkottai,
Tirunelveli -2.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records in No.6140/Pol/2002, dated 24.12.2002 on the file of the fourth respondent relating to the order of punishment of reduction to the bottom of the pay scale of Grade-I warden for a period of three years with cumulative effect with effect on pension and the order confirmed by the third respondent in No.995/Muvuoo/2003-I, dated 08.07.2003 and further confirmed by the second respondent in No.49654/EW.1/03, dated 08.03.2004 and further confirmed by the first respondent in G.O.No.122 Home (Prison-2) Department, dated 02.02.2006 and to quash the same.

For Petitioner : Mr.A.Immanuel

For Respondents: Mr.K. Ravi Kumar
Additional Government Pleader

O R D E R

This petitioner has filed this writ petition challenging the order dated 24.12.2002 on the file of the fourth respondent relating to the order of punishment of reduction to the bottom of the pay scale of Grade-I warden for a period of three years with cumulative effect with effect on pension and the order confirmed by the third respondent in No.995/Muvuoo/2003-I, dated 08.07.2003 and further confirmed by the second respondent in No.49654/EW.1/03, dated 08.03.2004 and further confirmed by the first respondent in G.O.No.122 Home (Prison-2) Department, dated 02.02.2006 and to quash the same and to call for the records in No.6140/Pol/2002, dated 24.12.2002 on the file of the fourth respondent relating to the order of punishment of reduction to the bottom of the time scale of pay of Grade-I warden for a period of three years with cumulative effect with effect on pension and to quash the same.

2. The case of the petitioner is that the petitioner was working at Central Prison, Palayamkottai, Grade-I, Warden. He was posted for duty of guarding seven remand prisoners at quadrant time. The said prisoners were segregated from other prisoners in order to avoid them committing from prison offence. Accordingly, the prisoners were placed under close supervision of guarding staff. On 22.06.2002 morning, the petitioner failed to supervise them while allowing their request for meeting natural adjust in the bath room situated in the east of the guarding-I. The petitioner went to main gate to receive the newspapers. Taking advantage of the unavailability of the petitioner in the quadrant time, the prisoners by breaking the bricks and the iron grills, created space for entry and one by one escaped through drainage lane. Thereby, the 4th respondent issued a charge memo under Rule 17(b) of Tamil Nadu Civil Services (Discipline and Appeal) Rules on 22.06.2002. After enquiry on 30.10.2002 the Enquiry Officer held that both the charges against the petitioner were proved. After receipt of the enquiry report, the 4th respondent issued show cause notice to the petitioner and the petitioner submitted his explanation on 21.11.2002 to impose a punishment reduction to the bottom of the pay scale of Grade-I Warden for a period of three years with cumulative effect and with effect on pension. Aggrieved by the said punishment, the petitioner preferred appeal to the third respondent on 19.02.2003. The third respondent confirmed the said punishment on 08.07.2003 as against the confirmation order, the petitioner filed a revision before the second respondent. The second respondent rejected the revision on 08.03.2004. Again the petitioner preferred further revision before the first respondent on 07.05.2004 and the first respondent vide his order dated 02.02.2006 confirmed the orders of the other respondents. Aggrieved by the same the present writ petition has been filed.

3. The learned counsel appearing for the petitioner would submit that due to negligence the petitioner and other two wardens did not take steps to prevent the detenus from escaping from the Prison. Thereby, all the three persons were issued a charge-memo. Initially, all three persons were punished for the same punishment. However, in the case of one Annadurai, his punishment was reduced from three years to one year. The appellate authority as well as revisional authority confirmed the order passed as against the petitioner as well as one Mani, contrary to the reduction of punishment granted in favour of the Annadurai. The petitioner's appeal and revision was dismissed. It is clear case of discrimination for non considering the appeal as well as revision on par with the said Annadurai, which is unsustainable under the settled principles of law.

4. The learned Additional Government Pleader appearing for the state would submit that the three persons were issued a charge memo for dereliction of duty. All the three persons were imposed the punishment of stoppage of increment for three years with cumulative effect. However, the case of Annadurai, is different from the case of the petitioner and other one person Mani. The said Annadurai is the Chief Head Warden (i/c), quadrant time. However, the other two persons responsibilities is to closely supervise. For non supervision of the guard, they were awarded stoppage of increment for three years. After considering the materials placed before the appellate authority, the appellate authority reduced the punishment in favour of Annadurai. That case cannot be equated to the case of the petitioner. The petitioner's case is different. Accordingly, all the four authorities, after considering the mater in detail, passed an order and the well considered order need not be interfered with under Article 226 of the Constitution of India.

5. Heard the learned counsel appearing for the petitioner as well as the learned Government Pleader.

6. The undisputed facts are that the petitioner was working in Central Prison as Grade - I Warden. On the particular day he was posted for duty of guarding seven remand prisoners at quadrant time. His duty is to supervise the prisoners. However, on the day due to the negligence on the part of the petitioner all the prisoners were escaped from the Prison. Thereby, they issued a charge memo. Before the Enquiry Officer, the petitioner did not plea that he is not responsible for supervision on the day. He admitted he is a prison supervisor on the day in his duty the prisoners were escaped

from the prison. Accordingly, the disciplinary authority imposed the punishment of stoppage of increment for three years. However, the petitioner's case cannot be equated with one Annadurai. The said Annadurai is working as Chief Head Warden. The nature of job for chief warden and petitioner is completely different. The petitioner was supervisor and his duty is to supervise the prisoners. Since the petitioner failed to supervise the prisoner, thereby the prisoners escaped from the prison. The plea of discrimination between Annadurai and petitioner was not established before this Court. In the absence of any such materials this Court cannot compare this petitioner to Annadurai.

7. Admittedly, the appellate authority as well as the revisional authorities confirmed the order of the disciplinary authority. Without any material, this Court is not inclined to interfere with the order passed by the respondent.

8. In view of the above, I do not find any illegality or infirmity to the above impugned order passed by the respondent. Accordingly, the writ petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

msm

To:

1. The Chief Secretary,
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Fort St. George,
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4. The Superintendent of Central Prisons,
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Tirunelveli -2.

+1cc to M/S.A.Immanuel, Advocate Sr.29312
+1cc to the Government Pleader Sr.30370

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srg 13/06/2018



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