

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :23.04.2018

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.49084 of 2006

M.Arumugam

.. Petitioner

Vs.

- 1.The State of Tamilnadu represented by
its Principal Secretary to Government,
Home (Pol VI) Department,
Fort St.George, Chennai 600 009.
- 2.The Director General of Police,
Office of the Director General of Police,
Chennai 600 004.
- 3.The Additional Director General of Police (L&O)
Chennai 600 004.
- 4.The Deputy Inspector General of Police,
Tirunelveli Range, Tirunelveli.
- 5.The Superintendent of Police,
Kanniyakumari.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified mandamus calling for the records on the file of the third respondent in his proceedings Rc.No.741/200356/AP.II(1)/02 dated 23.02.2003 and also on the file of the second respondent in his proceedings Rc.No.34299/PRII(1) (2004) dated 23.04.2004 and also on the file of the first respondent in GO (2D)No.561 Home (POLVI) Department dated 16.12.2005 and quash the same and direct the respondents to grant notional promotion as Head Constable with effect from 21.07.2002 (the date of gradation given to his juniors) with all service and monetary benefits.

For Petitioner	:	Mr.S.Selvathirumurugan
For Respondents	:	Mr.R.Govindasamy Spl.Govt.Pleader

O R D E R

Challenging the order of the third, second and first respondent dated 23.02.2003, 23.04.2004 and 16.12.2005 and for a consequential direction to the respondents to grant notional promotion as Head Constable with effect from 21.07.2002 (the date of gradation given to his juniors) with all service and monetary benefits.

2. The case of the petitioner is that he joined service as Grade II Police Constable and he was promoted as Grade I Police Constable in the year 1997 and thereafter, he was upgraded as Head Constable on 28.10.2004. While being so, based upon a false charge, a charge memo was issued on 24.03.2000 on the allegation that the petitioner is in a drunken mood, getting food materials, cigarette without payment under threat of dire consequences and tarnished the image of Police force. After due enquiry, the Original Authority / District Superintendent of Police (5th respondent) imposed a punishment of dismissal from service after following due process of law. As against the order of dismissal, the petitioner filed an appeal before the 4th respondent on 27.03.2002. After considering the petitioner's case, the punishment of dismissal is modified into reduction in time scale of pay by two stages for two years without cumulative effect. Aggrieved by the same, the petitioner has filed the review petition before the Inspector General of Police, Madurai on 25.07.2002. After considering the same, again, on 23.02.2003, the third respondent modified the punishment as reduction in time scale of pay by one stage for one year without cumulative effect. Aggrieved against the said punishment, the petitioner has filed the grievance petition before the second respondent dated 09.02.2004 under Rule 15(A) (i) (ii) of TNPSS (D & A) Rules, 1955 and the same was rejected. Against which, the petitioner has preferred a mercy petition to the Government on 31.03.2005 and the same was rejected on 16.02.2005. Aggrieved against the said order, the petitioner has filed the present writ petition before this Court.

3. The learned counsel appearing for the petitioner would submit that the Reviewing Authority has modified the punishment as reduction in time scale of pay by one stage of one year without cumulative effect to the petitioner. Thereafter, the petitioner preferred mercy petition to the Government on 31.03.2005, but the Government simply rejected the mercy petition on 16.12.2005. If the impugned order is quashed, the petitioner may get some benefits in future. Accordingly, he prays for allowing this writ petition.

4. The learned Additional Government Pleader would submit that the Disciplinary Authority has passed an order of dismissal and the same was modified by the Appellate Authority viz., third respondent as reduction in time scale of pay by one stage for one year without cumulative effect. Though all the charges were proved, the Reviewing Authority had imposed a punishment for minimum period of one year.

5. On a perusal of the records, it reveals that the charge was issued against the petitioner that he is in a drunken mood getting food materials, cigarette without payment under threat of dire consequences, on demand for cost and tarnished the image of Police force. However, the four witnesses were examined on the side of the petitioner, P.W.1 and P.W.2 were turned hostile and P.W.3 and P.W.4 deposition is in favour of the department and charges were

levelled against the petitioner. The two witnesses were examined as D.W.1 and D.W.2 and thereby the Original Authority viz., 5th respondent, District Superintendent of Police imposed a punishment of removal from service, as against the same, the petitioner has filed appeal before the Appellate Authority as well as the Reviewing Authority.

6. Though the Original Authority passed an order of dismissal, the Reviewing Authority viz., third respondent has modified the punishment as as reduction in time scale of pay by one stage of one year without cumulative effect, which has already been interfered with the punishment of Original Authority. Re-appreciating the order of fact finding Authority, under Article 226 of the Constitution of India is very very limited unless the punishment is disproportionate and shocking to the conscience of this Court.

7. In view of the above, I do not find any reason to interfere with the impugned order passed by the respondents and hence this writ petition is dismissed. No costs.

Sd/-
ASST. REGISTRAR

/TRUE COPY/

SUB ASST. REGISTRAR

kkd

To

- 1.The Principal Secretary to Government, State of T.N.,
Home (Pol VI) Department,
Fort St.George, Chennai 600 009.
- 2.The Director General of Police,
Office of the Director General of Police,
Chennai 600 004.
- 3.The Additional Director General of Police (L&O)
Chennai 600 004.
- 4.The Deputy Inspector General of Police,
Tirunelveli Range, Tirunelveli.

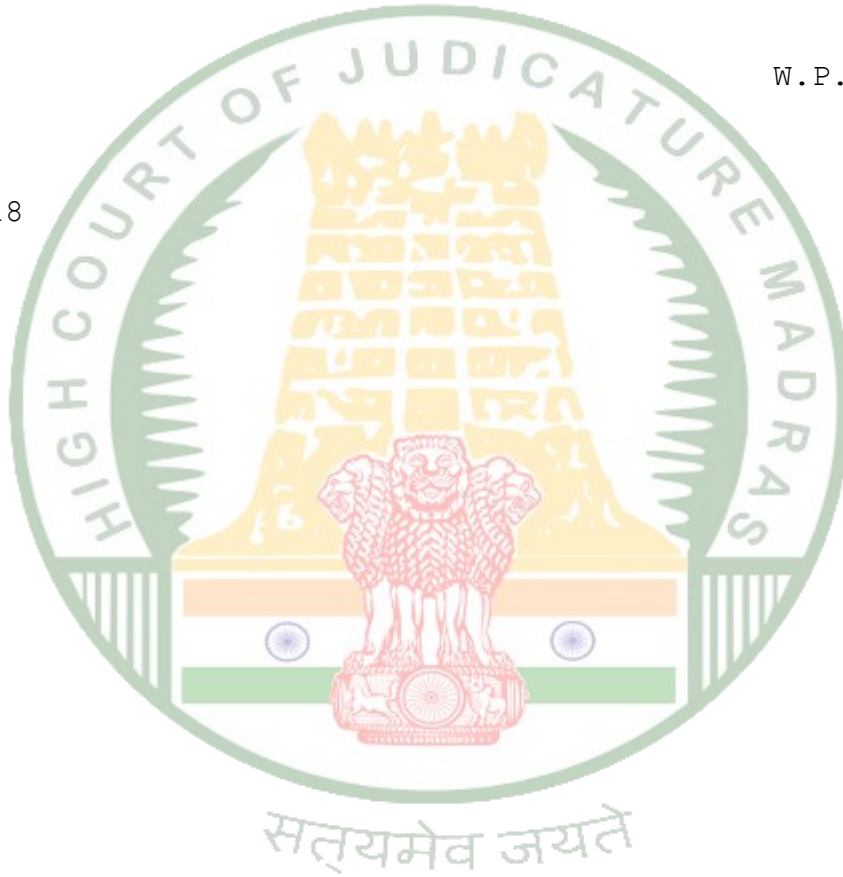
5.The Superintendent of Police,
Kanniyakumari.

+1 cc to the Government Pleader, High Court, Chennai SR.NO. 30379

+1 cc to Mr.S.Selvathirumurugan, Advocate SR.NO. 30807

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NRJK(CO)
JK 18/05/18



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