



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.02.2018

CORAM:

WEB COPY

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

W.P. (MD) No.1329 of 2018

and

W.M.P. (MD) Nos.1409 and 1410 of 2018

R.Somanathan

.. Petitioner

Vs.

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

2. The Deputy Inspector General of Police,
Trichirapalli Range,
Trichirapalli.

3. The Superintendent of Police,
Trichirapalli District.

4. R.Lalitha Lakshmi

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for records on the file of the impugned charge memo vide PR.No.13/2009 u/r 3(b) of TNPSS (D&A) Rules 1955 on the file of second respondent and impugned "Minute proceedings (enquiry report) drawn by the third Respondent/Superintendent of Police, Trichy District/Inquiry Officer, dated 30.05.2013 served on 11.5.2015 and impugned notice for further defense statement by the second respondent vide Na.Ka.No.B1/PR.22/2013, dt .22.12.2017 and to quash the same.

For petitioner : Mr. Raja Karthikeyan

For R1 to R-3 : Mr. K.Saravanan

Government Advocate

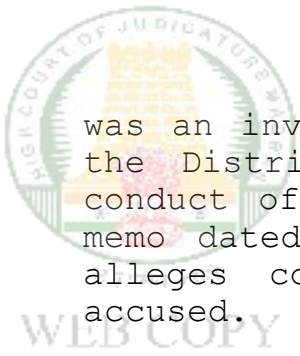
O R D E R

Heard the learned Counsel on either side.

2. By consent of both parties, the main writ petition is taken up for final disposal at the stage of admission itself.

<https://hcservices.ecourts.gov.in/hcservices/>

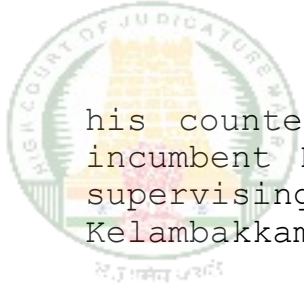
3. The petitioner was working as an Inspector of Police. He



was an investigating officer in Crime No.1 of 2006 on the file of the District Crime Branch, Ramanathapuram. With regard to the conduct of the petitioner herein as investigation officer, charge memo dated 29.06.2006, came to be issued. The said charge memo alleges connivance on the part of the petitioner herein with accused.

4. Since the petitioner herein denied the allegations made against him, enquiry was ordered to be conducted. But the enquiry officer, who was appointed in the first instance, did not hold any enquiry at all. Therefore, the second enquiry officer came to be appointed. He partly conducted enquiry but, did not complete the enquiry. In this circumstance, the third enquiry officer came to be appointed. The grievance of the petitioner is that the third enquiry officer did not conduct the enquiry properly. A very serious allegation was made to the effect that the enquiry officer wanted the petitioner to furnish him with an advance copy of the questions for cross-examination. According to the petitioner, he submitted a list containing 503 questions. The enquiry officer appears to have permitted the petitioner to raise only the tick marked questions. The petitioner, therefore, submitted a representation before the disciplinary authority in this regard. In the meanwhile, the third enquiry officer had submitted his enquiry report. Finding merit in the grievance expressed by the petitioner, the disciplinary authority remanded the matter to the file of the enquiry officer with a direction to hold a fresh enquiry. According to the petitioner, even after remand, the enquiry officer did not change his attitude. In fact, according to the petitioner, no enquiry was conducted at all by the third enquiry officer after such remand. On the other hand, according to the petitioner, he appears to have submitted an ante-dated enquiry report. This was in the year 2013. Therefore, when the petitioner received notice, calling upon him to submit further explanation in response to the said enquiry report, the petitioner voiced his concern. But, the disciplinary authority did not take any decision on the said representation. He simply kept the matter pending. At this stage, Mrs.K.Bhuvaneeswari, I.P.S took over charge as Deputy Inspector General of Police, Thiruchirapalli Range, Thiruchirapalli. The present incumbent caused to issue the impugned notice dated 22.12.2017, directing the petitioner to submit his explanation in respect of the second enquiry report submitted by the third enquiry officer. It was made clear that if the petitioner did not offer his explanation within fifteen days, it would be taken that he has no comment to offer and that the final orders will be passed thereon.

5. At this stage, the petitioner has come to this Court. Though the petitioner raised a number of contentions, this Court made it clear that it would consider the contention with regard to the presence of element of official bias on the part of the incumbent/disciplinary authority. Notice was issued to the respondent on this score alone. Though the learned Government Advocate appearing for the respondents wanted further time to file



his counter, based on instructions, he fairly submitted that the incumbent Deputy Inspector of Police, Tiruchirapalli Range was the supervising authority in Crime No.10 of 2007 on the file of the Kelambakkam P.S in which the petitioner herein was shown as accused.

6. This Court finds considerable force in the contention of the learned counsel for the petitioner. The incumbent disciplinary authority was admittedly the supervising authority of the criminal case in which the petitioner was figuring as an accused. The petitioner does not allege that the incumbent-Deputy Inspector of Police was biased against him. But, the issue is whether there is a strong likelihood of the bias. This Court is clearly of the view that permitting the incumbent-Deputy Inspector of Police/disciplinary authority to decide the fate of the petitioner in the disciplinary proceedings would definitely lead to miscarriage of justice. Therefore, considering these circumstances, the following directions are issued:-

(i) Since the impugned notice dated 22.12.2017 has been issued by the incumbent/Deputy Inspector of Police, without considering the petitioner's representation dated 03.12.2013, the same stands set aside.

(ii) The Additional Deputy General of Police (L&O) Chennai is directed to consider the petitioner's representation dated 03.12.2013 and pass appropriate orders in accordance with law within a period of four weeks from the date of receipt of a copy of this order.

(iii) the petitioner is now aged 69 years. The cause of action dates back to the year 2006. The disciplinary proceedings were initiated in the year 2009. Therefore, the disciplinary proceedings initiated against the writ petitioner shall be concluded within a period of five months from the date of receipt of a copy of this order.

7. This Writ petition is allowed, to the extent indicated above. No costs. Consequently connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (RTI)

/True Copy/

Sub Assistant Registrar

To:

1. The Director General of Police,
<https://hcservices.ecourts.gov.in/hcservices/>
Office of the Director General of Police,
Mylapore, Chennai - 600 004.



2. The Deputy Inspector General of Police,
Trichirapalli Range,
Trichirapalli.

3. The Superintendent of Police,
Trichirapalli District.

+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 49021
+ 1 CC TO Mr.RAJAKARTHIKEYAN, ADVOCATE IN SR No. 48476

KMI

TE/JC/SAR-2 : 10/05/2018 : 4P/6C

W.P. (MD) .No.1329 of 2018
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