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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.01.2018

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) No.943 of 2018

and

W.M.P. (MD) .Nos.988 and 989 of 2018

R.Palanikumar

.. Petitioner

Vs.

1. The Deputy Inspector General of Prison,
Trichy Range,
Trichy-23.

2. The Superintendent of Prisons,
Central Prison,
Trichy-20.

3.C.Murugesan

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records relating to the punishment order No.702/Po.2/2015 dated 29.09.2015 passed by the 2nd respondent and the show cause notice No.859/Mu.U/2016 dated 30.10.2017 issued by the first respondent and quash the same and consequently direct the respondents to grant all the service and monetary benefits for the suspension period and punishment period within a time limit to be fixed by this Court.

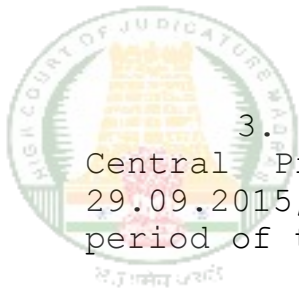
For petitioner : Mr.B.Karunanithi

For R-1 & R-2 : Mr.K.Saravanan
Government Advocate

O R D E R

Mr.K.Saravanan, learned Government Advocate takes notice for the Respondent Nos.1 and 2.

2. Heard Mr.B.Karunanithi, learned Counsel appearing for the petitioner and Mr.K.Saravanan, learned Government Advocate appearing for the Respondent Nos.1 and 2.



3. The writ petitioner is working as a Grade II Warden in Central Prison, Trichy. The second respondent by order dated 29.09.2015, imposed a punishment of stoppage of increment for a period of two years without cumulative effect.

4. Aggrieved by the same, the writ petitioner filed an appeal dated 24.11.2015 before the first respondent. The said appeal is yet to be disposed of.

5. The appellate authority had now chosen to issue the impugned notice dated 30.10.2017 calling upon the writ petitioner to show cause as to why the punishment imposed on him should not be enhanced. At this stage, the writ petitioner had moved this Court. The appellate authority has power under Rule 23 of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, 1955, to enhance the punishment imposed on the delinquent, if the appellate authority is of the view that the punishment originally imposed is inadequate. Since the impugned notice dated 30.10.2017 cannot be said to be without jurisdiction, I am of the view that the writ petitioner must offer his explanation to the same.

6. Questioning the punishment order dated 29.09.2015, he has already filed an appeal before the first respondent. It is still pending. Only during the consideration of the said appeal, the impugned show cause notice has been issued. The writ petitioner is, therefore, given time till 02.02.2018 to submit his explanation in response to the notice dated 30.10.2017. The first respondent shall consider the appeal lodged by the writ petitioner as well as his reply to the show cause notice dated 30.10.2017 and to pass final orders in accordance with law on or before 20.03.2018.

7. With these observations, this Writ petition is disposed of, accordingly. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To:

1. The Deputy Inspector General of Prison,
Trichy Range,
Trichy-23.
2. The Superintendent of Prisons,
Central Prison,
Trichy-20.

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

+ 1 cc TO Mr.B.Karunanithi , Advocate in SR No. 42376



+ 1 cc TO The Special Government Pleader in SR No. 42666

kmi

AE/SKN RSK/SAR4/22.01.2018/3P/5C

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**ORDER MADE IN
W.P. (MD) No.943 of 2018
17.01.2018**