



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.11.2018

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) No.8312 of 2011

C.Manikandan
Grade-I, Police Constable,
Thenkarai Police Station,
Periyakulam, Theni District.

... Petitioner

Vs.

1. The Director General of Police,
Santhome, Chennai.
2. The Deputy Inspector General of Police,
Dindigul Range,
Dindigul.

... Respondents

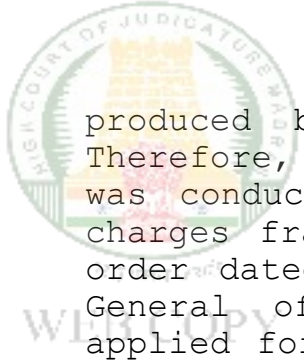
PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for records relating to the impugned order passed by the first respondent in his proceedings in C.No.90091/AP.2(3)/2010 dated 01.03.2011 confirming the punishment roll passed by the second respondent in his proceedings in PR 22/A2/2007 dated 14.09.2009 and quash the same as illegal.

For Petitioner	: Mr.M.Ajmal Khan, Senior Counsel for M/s.Ajmal Khan Associates
For R1 & R2	: Mr.Aayiram K.Selvakumar Additional Government Pleader

ORDER

The petitioner joined the police department as Grade II Police Constable. He was subsequently upgraded as Grade-I Police Constable. In the year 2007, he was working as a Police Driver under one Anand, Inspector of Police attached to the Prohibition Enforcement Wing.

2.The allegation against the petitioner is that on 16.01.2007, he produced two persons falsely impersonating them as the real accused. On enquiry by Mr.Sekarsingh, Inspector of Police, Rayappanpatti Police Station, who turned out that the persons



produced by the petitioner herein are not the real accused. Therefore, charge memo dated 29.09.2007 came to be issued. Enquiry was conducted. The Enquiry Officer rendered a finding that the charges framed against the petitioner stood proved. The impugned order dated 14.09.2009 came to be passed by the Deputy Inspector General of police Dindigul Range. The petitioner, thereafter, applied for review. However, the first respondent by the impugned order dated 01.03.2011, dismissed the same. Challenging both the orders, this writ petition has been filed.

3. Heard the learned Senior Counsel appearing for the writ petitioner and the learned Additional Government Pleader appearing for the respondents.

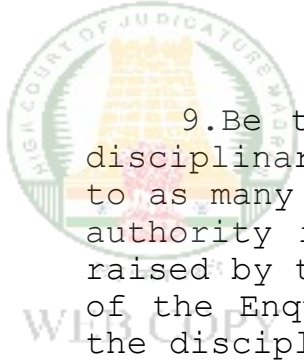
4. The respondents have filed their counter and the learned Additional Government Pleader strongly opposed the contentions raised by the learned counsel appearing for the writ petitioner.

5. The allegation against the petitioner is that he produced two persons impersonating them as the real accused in a criminal case. The learned Senior Counsel for the petitioner would point out that the petitioner was only working as a Police Driver during the time and it is not his job to produce any accused persons.

6. A careful reading of the materials on record indicates that the petitioner and one Saravanan who is the Police Driver of Sekarsingh were called upon to produce two persons. Under the impression that the said persons are the real accused, the petitioner and the said Saravanan brought them to the police station. Thereafter, the Inspector of Police realized that they are not the real accused. Therefore they were let off.

7. It is obvious that Tvl. Kathirebekar and Nobin Sebastin are the ones produced before the Inspector of Police. It is obvious that these two persons were produced jointly by the petitioner and Saravanan. But interestingly, it was only the petitioner who was proceeded against while Saravanan, became witness for the disciplinary authority.

8. This Court went through the deposition of Saravanan. A careful reading of the answers given by him in the cross examination would show that Saravanan did not support the charges framed against the petitioner herein. To a specific question as to whether the petitioner herein identified the persons as Manoharan and Anish, the answer given by Saravanan was those persons on their own mentioned their names as Manohanran and Anish. The next question that was put was whether the petitioner was stated that he knew Manoharan already to the Inspector of Police, Rayappanpatti Police Station. The answer was he did not remember the facts. Thus, it is clear that the Saravanan in his deposition, did not support the charges framed against the petitioner herein.



9. Be that as it may, in response to the notice issued by the disciplinary authority, the petitioner submitted a reply which runs to as many as seven pages. But the order passed by the disciplinary authority is cryptic and does not deal with any of the contentions raised by the petitioner at all. It is well settled that the report of the Enquiry Officer is only a material for the consideration of the disciplinary authority. It is for the disciplinary authority to take a final call in the matter. But then, it is apparent that in this case that he did not deal with all the defences raised by the petitioner herein and the remarks offered by them in response to the show cause notice.

10. In this case, eventhough, the petitioner offered a detailed reply, picking several holes in the enquiry report, the disciplinary authority has chosen to mechanically sustain the enquiry report and proceeded to impose a punishment of reduction in time scale of pay by two stages for two years, which would operate to postpone future increments. The first respondent ought to have seen that the order passed by the disciplinary authority is non speaking. The first respondent also failed to note the fatal flaw in the order passed by the second respondent.

11. In this view of the matter, the order impugned in this writ petition is set aside and this writ petition is allowed. No costs.

Sd/-

Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar (CS-I)

To

1. The Director General of Police,
Santhome, Chennai.
2. The Deputy Inspector General of Police,
Dindigul Range,
Dindigul.

+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 94952
+ 1 CC TO M/s.AJMAL ASSOCIATES, IN SR No. 95007

PNN

TE/BK/SAR-1 : 14/12/2018 : 3P/5C

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