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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.06.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.1070 of 2013

S.Devendiran

... Petitioner

vs.

1. The Superintendent of Police,
Villupuram District,
Villupuram.
2. The Deputy Inspector General of Police,
Villupuram Range,
Villupuram.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of Certiorari, to call for the records of the Respondents in connection with the impugned orders passed in P.R.No.33 of 2011, dated 17.02.2012 and C.No.D3/Appeal 16/2012, dated 14.05.2012 and quash the same.

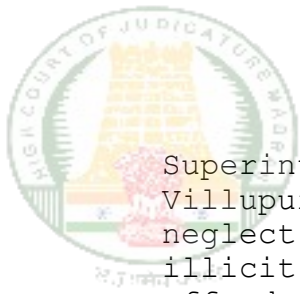
For Petitioner : Mr.K.Venkataramani,
Senior Counsel
for Mr.M.Muthappan

For Respondents : Mr.P.Sivashanmugasundaram,
Special Govt. Pleader

O R D E R

Petitioner has come up with the present Writ Petition seeking to quash the impugned orders passed by the Respondents in P.R.No.33 of 2011, dated 17.02.2012 and C.No.D3/Appeal 16/2012, dated 14.05.2012.

2. According to the Petitioner, he entered the service of the Respondent-Police Department as a directly recruited Sub-Inspector of Police through a selection conducted by the Recruitment Board and appointed to service in the year 2000. He successfully completed his probation and was due for promotion as Inspector of Police in the year 2010-11. But, the same was denied on the ground of pending disciplinary proceedings. The Petitioner was issued with a charge memo by the Deputy



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Superintendent of Police, Prohibition Enforcement Wing, Villupuram in C.No.D3/PR.33/2011, dated 03.11.2011 for "Gross neglect and dereliction of duty for having failed to eradicate illicit arrack and take stern action against the prohibition offenders at Chinnasalem P.S. limits".

3. It is further stated by the Petitioner that the said Charge Memo was issued based on a prohibition raid conducted by the Deputy Superintendent of Police, DCRB, Villupuram on 30.08.2011 with Kandamangalam PEW team at Kalvarayan Hills. To the said Charge Memo, the Petitioner submitted a detailed explanation on 20.12.2011 denying the charges and requested to furnish him copies of various Government Orders, which confer powers to PEW wing for total eradication of prohibition offences. But, the Disciplinary authority, viz. the 1st Respondent, by an order dated 17.02.2012, refused to accept the explanation and without any valid reason, imposed punishment of postponement of increment for one year without cumulative effect. Against the said punishment, the Petitioner preferred an Appeal on 04.04.2012, but, the 2nd Respondent, without considering any of the points raised in the Appeal grounds, rejected the same.

4. Learned counsel for the Petitioner, referring to 'F' Order at page 5 of the Typed set of papers, contended that the 1st Respondent/Disciplinary Authority, without assigning valid reasons and without reference to the explanation given by the Petitioner on 20.12.2011 to the Charge Memo dated 03.11.2011, has passed a cryptic order against the Petitioner postponing his increment for one year without cumulative effect and the same has also been confirmed by the 2nd Respondent/Appellate Authority.

5. It is the further contention of the learned counsel for the Petitioner that imposition of the said punishment on the Petitioner, who has conducted number of raids to eradicate illicit sale of arrack and registered as many as 55 cases, arrested the accused and remanded them to judicial custody, is bad in law.

6. In reply, learned Special Government Pleader appearing for the Respondents submitted that even though serious irregularities have been committed by the Petitioner, proceedings have been initiated in PR 33/11 under Rule 3(a) of the Tamil Nadu Police Subordinate Service (Discipline & Appeal) Rules, 1955, as no explanation was given by him. According to him, there is no need to conduct a detailed enquiry against the petitioner, when minor punishment is imposed on him.



7. Heard the learned counsel on either side and perused the material documents available on record.

8. On a perusal of the proceedings dated 02.03.2012 vide PR No.33/2011 produced by the Respondents, it is seen that in the Charge Memo dated 03.11.2011 issued against the Petitioner, the date on which the alleged incident is said to have taken place and the number of persons arrested by the Petitioner, are not mentioned. However, in the said proceedings, it is stated that the Petitioner has not submitted his explanation within the time stipulated. Hence, it was presumed that the Petitioner has admitted the guilt and the said punishment was imposed. Since the Charge Memo itself is vague about the date of the incident, the Court cannot blame the Petitioner in not giving a specific explanation. But, it is seen that the Petitioner has submitted an explanation to the Charge Memo on 20.12.2011.

9. In view of the above, this Court is of the view that the impugned order dated 17.02.2012 passed by the 1st Respondent/Disciplinary Authority confirmed by the 2nd Respondent/Appellate Authority vide impugned order dated 14.05.2012, cannot stand in the eye of law and the same are set aside. However, the Respondents are at liberty to proceed against the Petitioner by issuing a fresh Charge Memo, clearly mentioning the date of the alleged incident and the number of persons arrested by him.

10. In case, fresh Charge Memo is issued against the Petitioner, Respondents shall seek explanation from the Petitioner within a specific date and thereafter conduct enquiry on a day-to-day basis, without adjourning the matter beyond seven working days at any point of time.

This Writ Petition is allowed with the above direction. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

(aeb)

To:

1. The Superintendent of Police,
Villupuram District,
Villupuram.



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

+1cc to Mr.M.Muthappan, Advocate, S.R.No.46737

+1cc to the Government Pleader, S.R.No.47505

W.P.No.1070 of 2013

KS (CO)
CS/28/08/2019