

IN THE HIGH COURT OF JUDICATURE AT MADRAS  
DATED : 07.03.2019

CORAM:  
THE HONOURABLE MR. JUSTICE T.RAJA

W.P.No.21755 of 2009 and  
M.P.No.2 of 2009

M.Selvam

... Petitioner

Vs

1. The Secretary to Government,  
Home (Pol.IV A) Department,  
Fort St. George, Chennai-9.
2. The Director General of Police,  
Mylapore, Chennai-4.
3. The Deputy Inspector General of Police,  
Vellore Range, Vellore.
4. The Superintendent of Police,  
Thiruvannamalai District,  
Thiruvannamalai.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records connected with Proceedings issued in C.No.B1/AP.57/2006 dated 14.12.2006 passed by the 3<sup>rd</sup> respondent and R.No.67259/AP.2(2)/2007 dated 26.02.2008 passed by the 2<sup>nd</sup> respondent and G.O.(2D) No.13, Home (Pol.IVA) Department dated 20.01.2009 passed by the 1<sup>st</sup> respondent and quash the same.

For Petitioner : Mr.S.Ilamvaludhi

For Respondents : Mr.K.Ravi Kumar,  
Addl. Govt. Pleader

O R D E R

Challenging the Proceedings dated 14.12.2006 issued by the 3<sup>rd</sup> respondent, namely, the Deputy Inspector General of Police, Vellore Range, Vellore, which was modified in R.No.67259/AP.2(2)/2007 dated 26.02.2008 by the 2<sup>nd</sup> respondent, namely, The Director General of Police, Chennai on appeal and the said modification order which was confirmed in G.O.(2D) No.13, Home (Pol.IVA) Department dated 20.01.2009 by the 1<sup>st</sup> respondent and to quash the same, the present Writ Petition has been filed.

2. Learned Counsel appearing for the petitioner submitted that while the petitioner was working as Sub-Inspector of Police in Dusi Police Station, a Charge Memo has been issued to him under Rule 3(1) of the Tamil Nadu Police Subordinate Service (Discipline and Appeal) Rules with a sole charge which is given here under:

'Gross dereliction of duty in having failed to enforce TNP Act effectively in Dusi P.S. Limits in spite of repeated instructions and in having allowed Pro.Offenders to indulge in Prohibition Offences without any control, which resulted in detection of 3 cases in Dusi P.S.Cr.Nos.563/05 to 565/05 u/s.4(1) (aaa) r/w. 4(1-A) (ii) TNP Act by the District Special Party on 24 & 25.09.2005.'

On receipt of the said charge memo, the petitioner has submitted his explanation on 05.10.2005. As the petitioner suffered the charge memo in PR.137/2005 under Rule 3(a) of TNPSS (D&A) Rules, 1955, on the basis of the minutes drawn against the petitioner proving the charge levelled against him, the Superintendent of Police, Thiruvannamalai, awarded the punishment of postponement of increment for two years without cumulative effect on 10.11.2005 and the period of postponement shall not operate to postpone his future increments. Aggrieved by the same, the petitioner preferred an appeal before the Deputy Inspector General of Police, Vellore Range, Vellore, who also after considering the veracity of the charge levelled against the petitioner that has been proved, taking a lenient view stating that delinquency is minor in nature, modified the punishment of postponement of increment for two years with an observation that the period of postponement shall not operate to postpone his future increments into that of Censure to give him a chance to improve. This has been again assailed by the petitioner before the Director General of Police, Chennai. The Director General of Police, Chennai in his Proceedings in Rc.No.67259/AP.2(2)/2007 dated 26.02.2008 confirmed the order of modified punishment of Censure dated 14.12.2006 awarded by the Deputy Inspector General of Police, Vellore Range. Again, not being satisfied with the same, the petitioner preferred a Mercy Petition before the 1<sup>st</sup> respondent and the same was rejected by order dated 20.01.2009. Therefore, the petitioner has come to this Court by filing the present Writ Petition.

3. The learned Counsel for the petitioner argued that there are two wings in the Police Department to control the illicit arrack, namely, Law and Order and Prohibition Wing. The petitioner was only attached to the Law and Order Department. Therefore, initiating departmental proceedings against him in PR.137/2005 under Rule 3(a) of TNPSS (D&A) Rules, 1955 alleging that the petitioner has committed gross dereliction of duty in having failed to enforce TNP Act effectively in Dusi P.S. Limits

in spite of repeated instructions is wholly unjustifiable and uncalled for. Therefore, the learned Counsel for the petitioner prays to allow the present Writ Petition.

4. Heard the learned Additional Government Pleader appearing for the respondents.

5. I find no merits in the submission of the learned Counsel for the petitioner. The reason being that this is a summary proceedings initiated by the Superintendent of Police and after holding proper enquiry, awarded the punishment of postponement of increment for two years without cumulative effect on 10.11.2005 with an observation that the period of postponement shall not operate to postpone his future increments. While so, the petitioner preferred on appeal before the Deputy Inspector General of Police, Vellore Range, who modified the same to that of Censure and ultimately, the Director General of Police, Chennai has also confirmed the same. Not satisfied with the same, the petitioner has also filed a Mercy Petition before the 1<sup>st</sup> respondent and the same was also rejected by the Government by order dated 20.01.2009. Under such circumstances, this Court by invoking its power under Article 226 of the Constitution of India, cannot entertain the present Writ Petition because it would amount to reappreciation of evidence.

6. In the result, the Writ Petition fails and the same is accordingly dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-  
Assistant Registrar (CS VIII)

//True Copy//

Sub Assistant Registrar

tsi

To

1. The Secretary to Government,  
Home (Pol.IV A) Department,  
Fort St. George, Chennai-9.
2. The Director General of Police,  
Mylapore,  
Chennai-4.
3. The Deputy Inspector General of Police,  
Vellore Range,  
Vellore.

4. The Superintendent of Police,  
Thiruvannamalai District,  
Thiruvannamalai.

+1cc to the Government Pleader, S.R.No.22084

W.P.No.21755 of 2009

CP(CO)

RRS (12/04/2019)



WEB COPY