

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.09.2019

CORAM

THE HONOURABLE MR.JUSTICE SUBRAMONIUM PRASAD

W.P.No.1856 of 2010

and

M.P.Nos.1 and 3 of 2010

M.Natarajan

... Petitioner

Versus

1. The Secretary to the Government,
Home Department,
Secretariat, Chennai - 9.
2. The Director General of Police,
Chennai.
3. The Deputy Inspector General of Police,
Tirunelveli Range.
4. The Superintendent of Police,
Tirunelveli District.
5. The Chairman,
Uniformed Service Recruitment Board,
Anna Salai, Chennai - 2.

(R5 - impleaded as per order dated
23.04.2010 made in M.P.No.2 of 2010)

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the order passed by the 1st respondent in G.O.(2D).No.470 dated 27.11.2009, proceedings of the 2nd respondent dated 01.07.2009 in Rc.No.86796/AP.2(1)/09, order of the 3rd respondent in proceedings No.C.No.C4/AP.54/2009 dated 08.04.2009 and the impugned order passed in P.R.No.258/2008 dated 17.01.2009 on the file of the 4th respondent and quash the same and direct the respondents to grant all consequential benefits including promotion to the petitioner.

For Petitioner : Mr.M.S.Soundararajan

For Respondents: Mr.J.Ramesh,
Additional Government Pleader

O R D E R

The instant petition is for a Writ of Certiorarified Mandamus, calling for the records pertaining to the order passed by the 1st respondent in G.O.(2D).No.470 dated 27.11.2009, proceedings of the 2nd respondent dated 01.07.2009 in Rc.No.86796/AP.2(1)/09, order of the 3rd respondent in proceedings No.C.No.C4/AP.54/2009 dated 08.04.2009 and the impugned order passed in P.R.No.258/2008 dated 17.01.2009 on the file of the 4th respondent and quash the same and direct the respondents to grant all consequential benefits, including promotion to the petitioner.

2. While the petitioner was working as Grade I Police Constable, in Puliyarai Police Station, Tirunelveli, he was given a charge memo for the following acts of misconduct :-

"(i) Highly reprehensible conduct in having waylaid the lorries which have permissible load and haystack; demanded and accepted bribe of Rs.300/- from the crew of the vehicles at Puliyarai thus disregard the image of the police force.

(ii) Highly reprehensible conduct in having threatened the persons who are consuming liquor at Puliyarai in the guise of registered cases against them and then demanded and accepted bribe Rs.200/- from them during March 2008."

3. In view of the above, the Superintendent of Police conducted an enquiry and came to the conclusion that the charges have been proved. Admittedly, the copy of the enquiry report was not supplied to the petitioner. Without supplying the copy of the enquiry report of the Superintendent of Police, petitioner has awarded a punishment of "postponement of increment for three years without cumulative effect" on 17.01.2009.

4. The order of the Superintendent of Police was confirmed in appeal. Thereafter, the review and mercy petitions filed by the petitioner were also rejected. It is this order, imposing punishment, confirmed by the Appellate Authority, which is under challenge in the Writ petition.

5. Though the learned counsel for the petitioner raised several contentions, the learned counsel for the respondents admitted that the copy of enquiry report is not given to the petitioner. The non-furnishing of copy of enquiry report had taken away the valuable right of the petitioner to give effective representation against the findings of the enquiry.

6. The Hon'ble Supreme Court in the case of the Union of India Vs. Mohammad Ramzan Khan and others reported in (1991) 1 SCC 588 has observed as under:

"(18) We make it clear that wherever there

has been an Inquiry Officer and he has furnished a report to the disciplinary authority at the conclusion of the inquiry holding the delinquent guilty of all or any of the charges with proposal for any particular punishment or not, the delinquent is entitled to a copy of such report and will also be entitled to make a representation against it, if he so desires, and non furnishing of the report would amount to violation of rules of natural justice and make the final order liable to challenge hereafter."

7.The above said judgment has been affirmed by a Constitution Bench of the Hon'ble Supreme Court in the case of Managing Director, ECIL, Hyderabad, etc., Vs. B.Karunakar etc., reported in (1993) 4 SC 727.

8.Admittedly, the petitioner has not been furnished a separate copy of enquiry report. On this score, the order of dismissal is set aside. The case is remanded to the Disciplinary Authority, who is directed to supply the copy of the enquiry report to the petitioner. The petitioner is entitled to give his representation on the enquiry report to the Disciplinary Authority and the Disciplinary Authority is directed to consider the explanation given by the petitioner and pass appropriate orders in accordance with law.

9.The enquiry report be furnished to the petitioner within a period of six weeks from the receipt of the copy of the order. The petitioner is directed to give his representation within a period of four weeks therefrom and the Disciplinary Authority is directed to decide on the same, within a further period of four weeks from the date of receipt of the representation from the petitioner.

10.With the above directions, the Writ petition is allowed. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

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Sub Assistant Registrar

klt

To

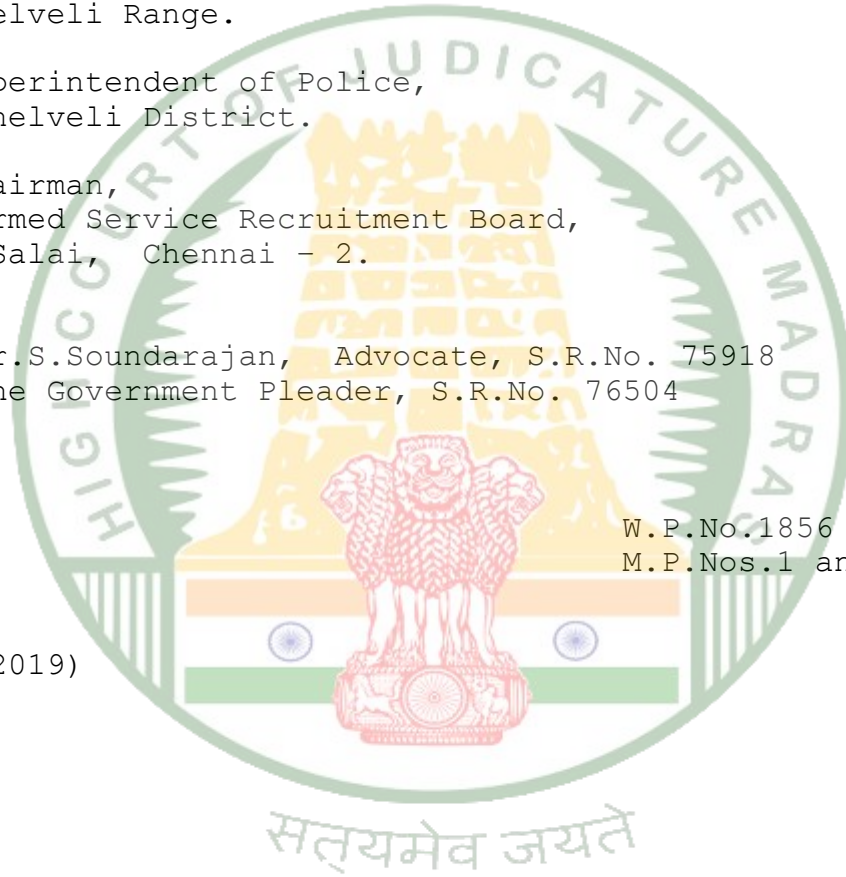
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+1cc to Mr.S.Soundarajan, Advocate, S.R.No. 75918

+1cc to the Government Pleader, S.R.No. 76504

W.P.No.1856 of 2010 and
M.P.Nos.1 and 3 of 2010

NMI (CO)
GN(15/10/2019)



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