

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 14.03.2019

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

WP.No.15017 of 2005

G.Ganesan

...Petitioner

Vs

1.The Superintendent of Police,  
Madurai District.

2.The Director General of Police  
Chennai-4.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records of the respondents in connection with the impugned orders passed by the 1st respondent in P.R.No.52/96 dated 04.01.1997 and Rc.No.14696/PR2(3)/2004 dated 13/12/2004 passed by the 2<sup>nd</sup> respondent and quash the same.

For Petitioner : Mr.K.Venkataramani, SC  
for Mr.M.Muthappan

For Respondents: Mr.S.Suresh Kumar, GA

O R D E R

The grievance of the petitioner is to the impugned order of punishment is postponement of increment for three years without cumulative effect and the consequent rejection of the mercy petition filed by the 2<sup>nd</sup> respondent herein.

2.The learned Senior Counsel for the petitioner submitted that no enquiry was conducted pursuant to the charges framed and therefore, the 1st respondent was not justified in imposing the punishment. He would further submit that the 2<sup>nd</sup> respondent had also passed a single line order, rejecting the petitioner's request for reconsideration of the punishment and as such, both the orders cannot be sustained.

3.I am unable to agree with such a statement. Rule 3(a) of the Tamil Nadu Police Subordinate Services (Discipline & Appeal) Rules, 1955 contemplates that whenever the authorities propose to impose a punishment of postponement of increment for 3 years,

the delinquent should be given reasonable opportunity for making a representation before the punishment is imposed.

4.In the instant case, the petitioner was granted an opportunity to make a representation and inspite of the same, the petitioner had not chosen to give a representation. By observing that the petitioner had not given his representation to the charges, the punishment came to be imposed. As such, it cannot be said that an enquiry is contemplated in a punishment of this nature, in view of Rule 3(a) of the said rules.

5.Insofar as the order passed by the 2nd respondent dated 30.04.2004 is concerned, it is seen that the same has been treated as a mercy petition and the punishment was confirmed. As against the punishment imposed by the 1st respondent herein, an appeal remedy is available, which the petitioner has not availed of. Even the mercy petition has been filed before the 2nd respondent after more than 7 years, which is contrary to proviso to Rule 15(A), which prescribes a period of 6 months for such a mercy petition being filed. Even though the 2nd respondent was not required to consider the mercy petition, in view of the limitation prescribed, he had chosen to consider the same and reject it.

6.For all the foregoing reasons, I do not find any infirmity in the impugned orders. Hence, the writ petition stands closed. No costs.

Sd/-

Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

jrs/hvk

To

1.The Superintendent of Police, Madurai District.

2.The Director General of Police, Chennai-4.

+1cc to Mr.M.Muthappan, Advocate, S.R.No. 24931

+1cc to the Government Pleader, S.R.No. 25158

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AK(CO)

GN(12/04/2019)