

IN THE HIGH COURT OF JUDICATURE AT MADRAS  
DATED: 07.02.2019

CORAM:  
THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN  
AND  
THE HONOURABLE MR.JUSTICE P.D. AUDIKESAVALU

W.A.No.163 of 2013

K.Yoganand

... appellant

versus

1. The Deputy Inspector General of Police,  
Madurai Range, Madurai

2. The Deputy Superintendent of Police,  
Coonoor Sub Division, Coonoor,  
Nilgiris District

....Respondents

Appeal filed against the order passed by this Court dated  
11.03.2011 passed in W.P.No.5075 of 2007.

Prayer in WP.No.5075 of 2007

O.A.No.9330 of 2000 has been preferred before the Tamil Nadu  
Administrative Tribunal and on transfer to this Court renumbered  
as W.P.No.5075 of 2007 praying for a Writ of Certiorarified  
Mandamus, to call for the records of the 1<sup>st</sup> respondent in  
Connection with the impugned order in AZ/PR36/99 (10/97 of  
Nilgiris Dist) dated 29.12.99 and quash the same.

For appellant : Mr.C.Venkatramani, Senior Counsel,  
for Mr.M.Muthappan

For Respondents : Mrs.A.Srijayanthi, Spl.G.P.

J U D G M E N T

(made by K.K.SASIDHARAN, J.)

The writ petition filed by the appellant challenging the  
order imposing punishment of reduction in time scale of pay by  
three stages for a period of three years with cumulative effect,  
was dismissed by the learned Single Judge. The said order is  
under challenge at the instance of the employee, primarily on  
the ground that required documents were not furnished by the  
Enquiry Officer.

2. We have heard the learned Senior Counsel for the  
appellant. We have also heard the learned Special Government  
Pleader on behalf of the respondents.

3. The appellant was functioning as Grade II Police Constable in the Kothagiri Police Station, Nilgiris District. The jurisdictional police registered a case in P.S.Cr.No.56 of 1992 under Section 437 and 380 IPC pursuant to the complaint lodged by Dr.Ravi Thilagaraj. The case was taken up for investigation by the Inspector of Police (Crime), Kotagiri. The appellant appears to have met the complainant and demanded money to meet the expenses for the recovery of the stolen jewels. The defacto complainant paid a sum of Rs.7,200/- to the appellant in instalments. Thereafter, the defacto complainant made a complaint against the appellant, resulting in issuing a charge memo. The enquiry officer appointed by the disciplinary authority conducted a very detailed enquiry and ultimately held that the charges were proved. The disciplinary authority imposed the punishment of reduction in time scale of pay by three stages for a period of three years with cumulative effect. There was no appeal against the said order dated 29 December 1999 on the file of the Deputy Inspector General of Police, Madurai.

4. The appellant filed an original application before the State Administrative Tribunal primarily on the ground that principles of natural justice were not followed in the matter of conducting enquiry. The original application was transferred to this court and it was renumbered as W.P.No.5075 of 2007. The learned single Judge considered the evidence on record and arrived at a factual finding that there were materials before the enquiry officer to arrive at a finding of guilt against the appellant. The writ petition was accordingly dismissed.

5. The appellant has taken up a contention that there was a request to provide certain documents and there was also an order passed by the State Administrative Tribunal to furnish all such documents. However, none of those documents were furnished and as such, there was violation of principles of natural justice.

6. There is absolutely no merit in the contention taken by the appellant. The enquiry was conducted in a fair and transparent manner after affording reasonable opportunity to the appellant to submit his version. The enquiry officer has passed a detailed order discussing each and every material, taking into account the defence taken by the appellant.

7. The witness P.W.1 has very specifically deposed the factum of demanding and accepting money by the appellant. The evidence of P.W.1 is supported by P.Ws.2 and 9. P.W.4 was examined to prove that he was engaged as driver by the appellant to drive the car bearing registration No.TNT 8310. The said car was used to visit the house of P.W.1 on four occasions. P.W.4 in his evidence deposed that he was specifically instructed not to write the trip sheet of the car for the days in question.

8. The appellant was not in a position to elicit any answer from the witnesses to make the prosecution case unreliable. The enquiry officer considered the entire materials in extenso and passed a very detailed order. The disciplinary authority also independently considered all the materials and thereafter, the punishment was imposed.

9. The jurisdiction of the High Court under Article 226 of the Constitution of India in a matter of this nature is very limited. It is not open to the High Court to appreciate the materials once again as if it is an appellate authority. When there are clear evidence to prove the misconduct, decision taken by the disciplinary authority should be given due weight. We are therefore of the view that the learned Single Judge was correct in dismissing the petition.

10. In the upshot, we dismiss the intra court appeal. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Deputy Inspector General of Police,  
Madurai Range, Madurai

2. The Deputy Superintendent of Police,  
Coonoor Sub Division, Coonoor,  
Nilgiris District.

+lcc to Mr.M.Muthappan, Advocate, S.R.No.11033

+lcc to the Government Pleader, S.R.no.11392

W.A.No.163 of 2013

RSV(CO)

rrs 26/03/2019

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