

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.11.2019

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.14434 of 2019

And

W.M.P.Nos.14445 and 28002 of 2019

P.Muthu

... Petitioner

Vs.

1.The Secretary to the Government,
Home Department,
Rajaji Road,
Fort.St.George,
Chennai - 600 009.

2.The Director General of Police,
Law and Order Dept.,
Mylapore,
Chennai - 600 004.

3.The Addl. Director General of Police,
Armed Police,
Chennai.

4.The Deputy Inspector General of Police,
Armed Police,
Chennai - 10.

5.The Commandant,
TSP VII Bn, Pochampalli,
Krishnagiri District.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records pertaining to the proceedings in C.No.C1/10769/2018 dated 10.04.2019 on the file of the 4th respondent and the consequential proceedings in C.No.E1/PR.39/2018, u/r 3(b) dated 15.04.2019 on the file of the 5th respondent and the same was received by the petitioner on 19.04.2019 and quash the same as illegal, incompetent and ultravires.

For Petitioner : Mr.R.Jayaprakash

For Respondents: Mr.A.N.Thambidurai

Special Government Pleader

O R D E R

The petitioner has filed this writ petition seeking issuance of a Writ of Certiorari to call for the records pertaining to the proceedings in C.No.C1/10769/2018 dated 10.04.2019 on the file of the fourth respondent and the consequential proceedings in C.No.E1/PR.39/2018, u/r 3(b) dated 15.04.2019 on the file of the fifth respondent and the same was received by the petitioner on 19.04.2019 and to quash the same as illegal, incompetent and ultravires.

2.Heard the arguments advanced on either side.

3.The case of the petitioner is that the petitioner joined the Police Department as Police Constable Grade - II on 02.04.1981 and was promoted to the post of Havildar (MT) on 24.10.1995 and further promoted to the post of Sub-Inspector (MT) on 06.06.2005. The petitioner was promoted to the post of Inspector of Police (Motor Transport Officer) on 21.10.2010.

4.It is the further case of the petitioner that the petitioner was trapped with false allegations and was issued with a charge memo dated 03.08.2018 under Section 3(b) of the Tamil Nadu Police Subordinate Service (Discipline and Appeal) Rules, 1955 and Enquiry Officer was appointed to conduct enquiry regarding the charge and the petitioner also participated in the enquiry, however, without considering his defence and in order to wreck vengeance, the respondents issued the impugned order. Hence, this writ petition.

5.This Court perused the impugned orders dated 10.04.2019 and 15.04.2019. On a perusal of the impugned order dated 10.04.2019 reveal that the Enquiry Officer has drawn a proved minute in PR and the petitioner was directed to acknowledge the minute in duplicate copy and to submit his further representation within 15 days from the date of receipt of the said minute. The impugned order further reveal that if no explanation is received within the stipulated time, it will be presumed that the petitioner has no further representation to offer and orders will be passed on merits. Impugned order dated 15.04.2019 is the communication sent to the petitioner.

6.The impugned order dated 10.04.2019 is only a memo calling for further representation from the petitioner. After receipt of the representation from the petitioner, it is for the Disciplinary Authority to pass orders based on records and based on the report submitted by the Enquiry Officer. Hence, without submitting further representation and filing this writ petition is pre-mature one.

7.Hence, the writ petition is dismissed. However, liberty

is granted to the petitioner to submit his further representation (Explanation) and if any such representation is received from the petitioner, the Disciplinary Authority has to pass appropriate orders.

8. With the above observation, the writ petition is dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to the Government,
Home Department,
Rajaji Road,
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2. The Director General of Police,
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3. The Addl. Director General of Police,
Armed Police, Chennai.
4. The Deputy Inspector General of Police,
Armed Police, Chennai - 10.
5. The Commandant,
TSP VII Bn, Pochampalli,
Krishnagiri District.

+1cc to Mr.R.Jayaprakash, Advocate, S.R.No. 91562

+1cc to the Government Pleader, S.R.No. 91773

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And

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and 28002 of 2019

JP (CO)

GN(05/12/2019)