

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.09.2019

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.2347 of 2018

E.Gnanam

... Petitioner

Vs.

1.The Director General of Police,  
Kamarajar Salai,  
Mylapore,  
Chennai 600 004.

2.The Commissioner of Police,  
Greater Chennai,  
Vepery,  
Chennai 600 007.

3.The Deputy Commissioner of Police,  
Traffic South,  
Chennai 600 016.

... Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the records pertaining to the impugned orders passed by the 2<sup>nd</sup> respondent order in Rc.No.PR V(1)/747/121987/2017 dated 20.04.2017 and the 3<sup>rd</sup> respondent order in PR.No.112/Tr.PR/2014 u/r 3(b) dated 02.08.2015 and the 3<sup>rd</sup> respondent's order dated 24.05.2018 in its proceedings in PR.No.112/Tr.PR/2014 and quash the same and consequently direct the 1<sup>st</sup> and 2<sup>nd</sup> respondents to regularize the service and give the monetary benefits to the petitioner.

(Prayer amended vide order dated 18.03.2019, made in WMP.No.30514 of 2018 in W.P.No.2347 of 2018 by SMSJ).

For Petitioner : Mr.M.Purushothaman

For Respondents : Mrs.A.Sri Jayanthi,  
Additional Government Pleader.

## O R D E R

The petitioner was appointed as Grade-II Police Constable on 16.06.1993 and was promoted as Head Constable, Armed Reserve, Greater Chennai Police in the year 2008 and thereafter he served in J-2 Adyar Traffic Police Station under the 3<sup>rd</sup> respondent. During that time, he was issued the charge memo in Ko.No.112/Traffic.V.T.P(South)/2014 dated 04.11.2014 alleging that he had misused the Government Vehicle, when he was asked to fill fuel for that said vehicle, which is under the control of J-8 Neelangarai Traffic Police Inspector and also theft the fuel to the tune of 10 liters from the said vehicle. The petitioner submitted his explanation to the said memo on 08.06.2015. However, the enquiry officer being not satisfied with the explanation of the petitioner, filed the final report before the 3<sup>rd</sup> respondent stating that the charges are proved against the petitioner. Based on the final report, the 3<sup>rd</sup> respondent vide proceedings dated 02.08.2015 imposed punishment of "postponement of increment for one year with cumulative effect and it shall operate to postpone his future increments. Aggrieved by the said punishment order, the petitioner filed an appeal before the 2<sup>nd</sup> respondent on 05.09.2015. The Appellate Authority confirmed the punishment order. Thereafter, the petitioner filed the present writ petition challenging the order of the appellate authority.

2. This Court, while entertaining this writ petition, by an order dated 05.02.2018 has observed that after the enquiry officer already submitted his report holding that the petitioner is found guilty of both the charges, how the disciplinary authority has imposed a lighter punishment of postponement of increment for one year with cumulative effect and also issued notice to both the petitioner and the respondents as to why the punishment imposed should not be enhanced. Based on this order, the 3<sup>rd</sup> respondent enhanced the punishment by its order dated 24.05.2018 as "Postponement of increment for 3 years with cumulative effect." Aggrieved by the enhancement of punishment, the petitioner has filed the present petition.

3. Heard Mr.M.Purushothaman, learned counsel appearing for the petitioner and Mrs.A.Srijayanthi, learned Additional Government Pleader, appearing for the respondents.

4. Mr.M.Purushothaman, the learned counsel appearing for the petitioner would submit that this Court by an order dated 05.02.2018 has only sought for an explanation from the petitioner as well as from the respondents, as to why the punishment imposed against the petitioner should not be enhanced. However, the 3<sup>rd</sup> respondent without issuing any notice to the petitioner has directly enhanced the punishment, which is

unsustainable. Accordingly, he prays for allowing this petition.

5.Mrs.A.Srijayanthi, learned Additional Government Pleader did not dispute the facts submitted by the learned counsel for the petitioner and she has also filed a counter, wherein the enhancement of punishment was not even mentioned.

6.On perusal of records it is seen that originally the punishment was imposed by the competent authority viz., 3<sup>rd</sup> respondent and thereafter, the said punishment was confirmed by the 2<sup>nd</sup> respondent. However, the petitioner without filing any revision, approached this Court by way of this writ petition and this Court while entertaining the writ petition has observed that why the punishment should not be enhanced and based on this order, the 3<sup>rd</sup> respondent has enhanced the punishment of postponement of increment for three years with cumulative effect. The main grievance of the petitioner is that without affording any opportunity, the authorities have passed the orders.

7.Considering the facts and circumstances of the case, this Court is inclined to quash the order of the 2<sup>nd</sup> respondent dated 20.04.2017 and restore the original punishment order dated 02.08.2015 issued by the 3<sup>rd</sup> respondent. The petitioner is at liberty to file a revision before the concerned authority challenging the original order dated 20.04.2017 passed by the competent authority. On filing of such petition, the revisional authority may consider and pass orders on merits and in accordance with law.

8.This writ petition is disposed of on the above terms. No costs.

Sd/-  
Assistant Registrar (Insp.Cell)

//True Copy//

Sub Assistant Registrar

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To

1. The Director General of Police,  
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2.The Commissioner of Police,  
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Chennai 600 016.

+2 ccs to Mr.M.Purushothaman, Advocate, S.R.No.76725

W.P.No.2347 of 2018

VD(CO)  
SSM(25/09/2019)  
CB(25/09/2019)