

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 25.10.2019

CORAM:

THE HONOURABLE MR.JUSTICE SUBRAMONIUM PRASAD

W.P.No.27448 of 2017

Pechimuthu

... Petitioner

Vs.

1. The Additional Director General of Police and
Inspector General of Prison,
Tamilnadu Prison Department,
Chennai - 600 008.

2. The superintendent of Prison,
Central Prison-I,
Puzhal, Chennai.

... Respondents

Prayer: Writ petition filed under Article 226 of the
Constitution of India, for a Writ of Certiorarified Mandamus,
call for the records from the 2nd respondent pertaining to the
proceedings no.5754/G.3/2013 dated -09.2017 and quash the same
and consequently directing the 2nd respondent permit the
petitioner to take assistance from any retired government
servant to present his case during conducting disciplinary
proceedings.

For Petitioners : Mr.N.Kumar

For Respondents : Ms.K.Bhuvaneswari, A.G.P.

O R D E R

This Writ petition is directed against the order dated
08.09.2017 denying the assistance of retired Government servant
to hold the petitioner in conducting domestic enquiry initiated
against him.

2. The petitioner was appointed as a Grade-II warden in
Tamil Nadu Prison Service, who was promoted later as Grade-I
warden. Charges were framed under Rule 17(b) of the Tamil Nadu
Civil Services (Discipline and Appeal) Rules, vide proceedings
No.5754/G.3/2016 dated 04.11.2016. The enquiry officer was
appointed. The petitioner gave a representation to the enquiry
officer seeking his permission to permit one S.Karunamoorthy,
Retired Chief Warder, Kancheepuram to assist him for conducting

disciplinary proceedings initiated against the petitioner. The said request has been turned down by the impugned order herein.

3. Heard the counsel for the parties.

4. Second proviso to Rule 17(b)(i) of the Tamil Nadu Civil Service (Discipline and Appeal) Rules, reads as under:-

"Provided also* that the Government Servant may take the assistance of any retired Government servant to present the case on his behalf but may not engage a legal practitioner for the purpose unless the inquiring authority is a legal practitioner or the inquiring authority, having regard to the circumstances of the case, so permits. *(Vide G.O.Ms.No.160, P&AR(N) Department, dated 20.9.2006 w.e.f.20.9.2006) Explanation :- The Government servant shall not take the assistance of any retired Government servant who has two pending disciplinary cases on hand, in which he has to give assistance."

Under the said 2nd proviso to Rule 17(b)(i), the Government servant can take the assistance of any retired Government servant to present the case on his behalf and such a request can be granted based on the circumstances of the case.

5. The impugned order is a very short cryptic unreasoned order which reads as under:-

"Office of the Superintendent of Prison Central
Prison-2,
Puzhal, Chennai-66.
Date: 3.09.2017

Sub- Prisons- Central Prison-2, Puzhal, Chennai-66-
Thiru.E.Petchimuthu, Grade I Warder (Now working at Central Prison, Palayankottai) is seeking to permit one Thiru.Karunamurthi, retired Head Warder, to represent on his behalf during department enquiry-Reg.

Ref- Representation of Thiru.E.Petchimuthu, Grade I Warder (Now working at Central Prison, Palayankottai) dated 06.09.2017

It is hereby informed that, representation cited in reference read above, with regard to the subject, Thiru.Karunamurthi retired Head Warder, cannot be permitted to represent in the department enquiry scheduled to be held on 15.09.2019 on behalf of Thiru.E.Petchimuthu Grade I Warder (Now working at Central Prison, Palayankottai) former Grade I Warder of Central Prison-II, Puzhal. Further you are intimated that you may receive the documents as per your request.

Sd/-

Enquiry Officer and
Additional Superintendent
(Central Prison, Vellore)
Other Duty Central Prison-1, Puzhal"

6. The order does not given any reasons as to why the assistance of the retired Government officer as sought for by the petitioner should not be granted. It is well settled that any order having consequences must be supported with reason. Reasons are the link between the thought process and the decision arrived at. Any order sans reasons must be set aside. The said order is set aside. Nothing is forthcoming from the respondents as to why assistance must not be given to the petitioner. The respondents are directed to provide the petitioner assistance of conducting domestic enquiry initiated against the petitioner under Rule 17(b)(i) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules.

7. Writ petition is Allowed. No Costs. Consequently, the connected miscellaneous petition is closed.

-s/d-

Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

Pkn.

To

1. The Additional Director General of Police and
Inspector General of Prison,
Tamilnadu Prison Department,
Chennai - 600 008.

2. The superintendent of Prison,
Central Prison-I,
Puzhal, Chennai.

+1 CC to Govt. Pleader sr 89939.

W.P.No.27448 of 2017

KK(CO)
SP(04/12/2019)