



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.11.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.S. SUNDAR

W.P.(MD).No.8451 of 2010
M.P.(MD).Nos.1 & 2 of 2010

P.Nagamanickam

.. Petitioner

Vs.

1.The Superintendent of Police,
Dindigul District, Dindigul.

2.The Deputy Superintendent of Police,
Dindigul Town, Dindigul District.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Certiorarified Mandamus, calling for the records in impugned order, dated 29.07.2009 passed in P.R.No.16 of 2009 under Section 3(a), by the 1st respondent and quash the said impugned order and direct the respondents to pay the monetary loss suffered by the petitioner due to the impugned order.

For Petitioner : Mr.C.Dhana Seelan

For Respondents : Mr.D.Muruganandam
Additional Government Pleader

ORDER

This writ petition is filed for issuance of Certiorarified Mandamus to quash the impugned order, dated 29.07.2009 passed in P.R.No.16 of 2009, by the 1st respondent and to direct the respondents to pay the monetary loss suffered by the petitioner due to the impugned order.

2.The petitioner was recruited in the year 1979 as Sub Inspector of Police and he was promoted to the post of Inspector of Police in 1993. When the petitioner was serving as Inspector of Police in Dindigul District, the second respondent issued a charge memo, dated 24.03.2009 under Rule 3 (a) of Tamilnadu Police Subordinate Services (Discipline and Appeal) Rules 1955, stating that on 18.12.2008, the petitioner failed to remove the Flex Board fixed by 'Hindu Munnani' in a place called 'Kudaiparai' and that thereby the petitioner was responsible for the law and order problem. The second respondent gave seven days time to the petitioner to give his explanation. It appears that the



petitioner did not give his reply or explanation within the time stipulated by the second respondent. He submitted his explanation on 15.06.2009. However, the second respondent gave his minute and forwarded the same to the first respondent, after the petitioner submitted his explanation to the charges, but without considering the explanation of petitioner. It is was on the basis of the report of second respondent, the final order was passed imposing the punishment of postponement of increment for a period of one year without cumulative effect. Without challenging the order by filing appeal or revision, the above writ petition is filed by the petitioner, challenging the order of punishment.

3.The learned counsel for the petitioner submitted that the charge memo issued to the petitioner is very vague and he further submitted that the impugned order is in violation of principles of natural justice. Though it is admitted that charge memo was issued only under Rule 3(a) of Tamilnadu Police Subordinate Services (Discipline and Appeal) Rules, 1955, it is admitted that the second respondent has drawn a report to the first respondent regarding the delinquency and in the said report it was found that the charges against the petitioner are proved. No enquiry is contemplated under Rule 3(a) of the Rules. The fact that the impugned order passed by the first respondent was based on the report of second respondent is not seriously disputed before this Court. It is also admitted before this Court that the report of the second respondent was not communicated to the petitioner before passing the order of punishment.

4.From the facts admitted before this Court, this Court is able to see that the impugned order of punishment was based on the report of second respondent without either furnishing the copy of the report to the petitioner or after getting his further explanation to the show cause notice calling upon the petitioner to submit his remarks/objections to the report. Since the order imposed is a punishment which has serious financial implications, it cannot be said that the petitioner is not aggrieved by the order of punishment. Having regard to the nature of punishment and the fact that the promotion of the petitioner was postponed in view of currency of punishment, this Court is of the view that the order impugned is in violation of principles of natural justice on the admitted facts. Hence, this Court is inclined to entertain this writ petition. The matter has to be remitted back giving liberty to the respondent to pass appropriate orders on merits after giving adequate opportunity to the petitioner.

5.As a result, this writ petition is allowed and the impugned order is set aside. The matter is now remitted to the first respondent to pass appropriate orders after giving a second show cause notice to the petitioner along with the copy of the



report of second respondent. When such notice is issued, the petitioner shall submit his explanations within a period of two weeks from the date of show cause notice. The first respondent shall also consider the fact that the findings of the second respondent were without considering the explanation of petition to the charge memo. The first respondent shall pass fresh orders on merits within a period of four weeks from the date of receipt of his further explanation from the petitioner. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

Sub Assistant Registrar(CS)

TM

To

1.The Superintendent of Police,
Dindigul District, Dindigul.

2.The Deputy Superintendent of Police,
Dindigul Town, Dindigul District.

+1 CC to MR.C.DHANASEELAN, Advocate (SR-100614[F] dated
22/11/2019)

+1 CC to MR.SPL GP (SR-101150[F] dated 25/11/2019)

W.P. (MD) .No.8451 of 2010.

22.11.2019

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