



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.10.2019

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THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**

W.P.(MD)No.6524 of 2013

M.John Stephen

:Petitioner

vs.

- 1.The State of Tamil Nadu
represented by its Secretary,
Home (Police VI) Department,
Fort St.George,
Chennai - 600 009.
- 2.The Director General of Police,
Dr.Radhakrishnan Salai,
Mylapore, Chennai - 600 004.
- 3.The Superintendent of Police,
Nagercoil, Kanyakumari District.

:Respondents

PRAYER: Writ Revision Petition filed under Article 226 of Constitution of India, praying to issue Writ of Certiorari, to call for the records pertaining to the impugned order in G.O.(2D)No.314 Home (Police VI) Department, dated 07.09.2011 on the file of the first respondent and quash the same as illegal.

For Petitioner
For Respondents

:Mr.T.Lajapathi Roy
:Mr.D.Muruganandam
Additional Government Pleader

ORDER

This Writ Petition is filed for issuing a Writ of Certiorari, to quash the impugned order passed by the first respondent, dated 07.09.2011.

2.The petitioner while serving as Grade-II Police Constable in Vadasery Police Station, Kanyakumari District, was given a charge memo under Rule 3(a) of Tamil Nadu Police Subordinate Service (Discipline and Appeal) Rules, 1955, by the third respondent. The charge was relating to production of bogus lodge receipt, while serving in Tamil Nadu Uniformed Service Recruitment Board at Chennai for 61 days in 2000.



3.The third respondent passed an order imposing the punishment of postponement of increment for a period of one year without cumulative effect on 21.12.2001. Thereafter, the petitioner preferred an appeal before the second respondent, who rejected the appeal by proceedings dated 20.12.2003. Thereafter, the petitioner filed a petition before the first respondent and the first respondent also rejected the petition filed by the petitioner by the impugned order, dated 07.09.2011. Hence, the petitioner has preferred the present Writ Petition challenging the order of first respondent mainly on the ground that it is not a speaking order and that it was passed ignoring his factual submissions that reasonable opportunity was not given to him by the third respondent, while passing the order of punishment.

4.The learned Counsel for the petitioner submitted that the explanation offered by the petitioner was not considered and that therefore, the impugned order is liable to be quashed.

5.The third respondent filed a detailed counter affidavit disputing the contentions of the petitioner. It is not in dispute that the charge against the petitioner is about his false claim to get travelling allowances by producing bogus lodge receipt for attending data entry work at Tamil Nadu Uniformed Service Recruitment Board, Chennai for 61 days in 2000. Though it is stated that the delinquency committed by the petitioner was proved during oral enquiry, in the order passed by the third respondent, dated 21.12.2001, it is recorded that the petitioner has admitted the offence and pleaded that he had no intention to cheat the Government and that he was misguided by his colleague. It is also recorded that the petitioner's explanation is not acceptable.

6.In the entire affidavit filed in support of this petition, the petitioner has not disputed the said fact recorded by the third respondent in the order of punishment. Therefore, the only contention that a reasonable opportunity was not given to the petitioner at the time of enquiry before passing the order of punishment cannot be appreciated.

7.The learned Counsel for the petitioner himself has admitted that the punishment is proportionate to the proved charge. The order of punishment based on the admission of petitioner cannot be faulted. The learned Counsel for the petitioner submitted that even while framing charges for minor penalty, a reasonable opportunity should be afforded to the delinquent as per Rule 3(a) of Tamil Nadu Police Subordinate Service (Discipline and Appeal) Rules, 1955. When the minor punishment was imposed based on the admission of the petitioner, the submission of learned Counsel for the petitioner has no merits. Hence, this Court find no error or irregularity in the order of third respondent, which was confirmed by the second respondent and later confirmed by the first respondent by the



8. Accordingly, this Writ Petition is dismissed and the impugned order passed by the first respondent, dated 07.09.2011 is confirmed. No costs.

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Sd/-

Assistant Registrar ()

// True Copy //

Sub Assistant Registrar(CS)

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To

1. The Secretary,
The State of Tamil Nadu,
Home (Police VI) Department,
Fort St. George,
Chennai - 600 009.
2. The Director General of Police,
Dr. Radhakrishnan Salai,
Mylapore, Chennai - 600 004.
3. The Superintendent of Police,
Nagercoil, Kanyakumari District.

+1 CC to M/s. SPL GP (SR-95463[F] dated 01/11/2019)

+1 CC to Mr. T. LAJAPATHI ROY, Advocate (SR-95819[F] dated 04/11/2019)

W.P. (MD) No. 6524 of 2013

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