



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE **D.KRISHNAKUMAR**

W.P.(MD)No.4138 of 2017

and

W.M.P.(MD)No.3296 of 2017

S.Maheswari

... Petitioner

Vs.

1. The Commissioner of Police,
Madurai City, Madurai.

2.The Deputy Commissioner of Police (Headquarters),
Madurai City, Madurai.

3. The Deputy Commissioner of Police (Law and Order),
Madurai City, Madurai.

4. Thiru.Bandi Gangathar, IPS.,
Deputy Commissioner of Police (L & O),
Madurai City, Madurai.

5. The Assistant Commissioner of Police,
Tallakulam L & O Range (Preliminary Enquiry Officer),
Madurai City, Madurai.

6. The Deputy Superintendent of Police,
Thilagar Thidal Crime Range (Enquiry Officer),
Madurai City,
Madurai District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari, calling for the records related to the punishment order No.D1(1)/PR-28/16-u/r.3(b), dated 09.09.2016, passed by the third respondent and further order in C.No.D1(1)/Appeal-04/2016, dated 11.11.2016, passed by the first respondent and quash the same.

For Petitioner

: Mr.A.Thirumurthy
for M/s.Victory Associates

For Respondents

: Mr.Aayiram K.Selvakumar
Additional Government Pleader

**ORDER**

The petitioner has come up with the present Writ Petition seeking for issuance of a Writ of Certiorari, to quash the punishment order No.D1(1)/PR-28/16-u/r.3(b), dated 09.09.2016, passed by the third respondent and further order in C.No.D1(1)/Appeal-04/2016, dated 11.11.2016, passed by the first respondent.

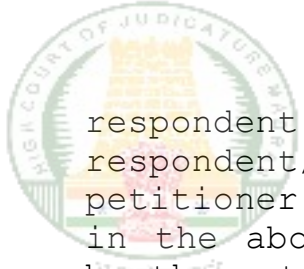
2. According to the petitioner, she was originally appointed as Gr.II Constable on 01.11.1997 and further promoted as Gr.I Constable on 01.12.2007 and also promoted as Head Constable on 01.12.2012. While she was working as Head Constable at D2 - Sellur (L & O) Police Station, Madurai City Police, she was placed under suspension by the third respondent, vide his proceedings dated 23.11.2015, based on the allegation that she had involved in unauthorised collection of petty amount from commercial freight vehicles passing through Dindigul Road Check Post. On receipt of the charge memo, based on the above allegation, the petitioner had also submitted her explanation to the said charge, but the third respondent without appreciating the explanation offered by the petitioner, has imposed a punishment of stoppage of increment for a period of three years with cumulative effect on 09.09.2016. Against the said punishment order, the petitioner had preferred an appeal before the first respondent herein/appellate authority. The first respondent rejected the said appeal without considering the grounds raised by the petitioner. Therefore, the petitioner has come up with the present Writ Petition for the relief stated supra.

3. The learned counsel appearing for the petitioner submitted that the petitioner had raised several grounds before the first respondent/appellate authority and the same have not been considered by him and without considering the same, the first respondent simply rejected the said appeal, which itself would vitiate the entire appeal proceedings.

4. The learned counsel appearing for the petitioner further submitted that the third respondent is not the competent authority to impose the punishment against the petitioner, since he is a party to the said complaint and therefore, the impugned order is liable to be quashed.

5. The learned Additional Government Pleader appearing for the respondents drew the attention of this Court to the impugned order passed by the first respondent and submitted that the first respondent has passed the said order based on the materials on record and therefore, there is no infirmity in the order passed by the first respondent by confirming the order passed by the third respondent/original authority and prayed for dismissal of the Writ

6. Perusal of the impugned order passed by the first



respondent shows that simply he confirmed the order of the third respondent/original authority, but the grounds raised by the petitioner have not been discussed or reason has not been adduced in the above said impugned order, for rejecting the appeal filed by the petitioner. Therefore, as rightly submitted by the learned counsel appearing for the petitioner, the order passed by the first respondent is not a reasoned order and simply, the first respondent rejected the appeal filed by the petitioner, by incorporating the charge framed against the petitioner under Rule 3(b) of the Tamil Nadu Police Subordinate Service (Discipline and Appeal) Rules, 1955 and also the punishment imposed on the petitioner. Paragraph No.4 of the order of the first respondent, reads as follows:-

''4.I have through the entire PR file, appeal petition and other connected records. The misconduct in question was detected by the Deputy Commissioner of Police, Law & Order, Madurai City, personally and he has witnessed the same.''

7.Perusal of the impugned order of the first respondent further shows that the said order has not been passed by him by considering the grounds raised by the petitioner and he simply accepted the order passed by the third respondent/original authority.

8.Considering the abovesaid facts, the impugned order of the first respondent dated 11.11.2016, is liable to be quashed and accordingly, it is quashed. The matter is remitted back to the first respondent to consider the matter afresh and pass appropriate orders in accordance with law, after providing an opportunity of hearing to the petitioner, within a period of six months from the date of receipt of a copy of this order. It is made clear that the order of the first respondent dated 11.11.2016 alone is quashed.

9.Accordingly, this Writ Petition is partly allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

To

<https://hcservices.hccourts.gov.in/hcservices>
The Commissioner of Police,
Madurai City, Madurai.



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Thilagar Thidal Crime Range (Enquiry Officer),
Madurai City,
Madurai District.

+1 CC to Mr.A.THIRUMURTHY, Advocate (SR-74257[F] dated 09/07/2019
)

+1 CC to Special Government Pleader (SR-74473[F] dated 10/07/2019
)

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09.07.2019

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