



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.12.2019

CORAM:

THE HONOURABLE **MR. JUSTICE M.S.RAMESH**

W.P. (MD)No.7118 of 2017

M.Maruthupandi

... Petitioner

/Vs./

1.The Director General of Police,  
Tamil Nadu.

2.The Additional Director General of Police,  
Guindy, Chennai.

3.The Superintendent of Police,  
CCIW CID,  
Guindy, Chennai.

4.The Commissioner of Police,  
Greater Chennai,  
Chennai.

... Respondents

PRAYER:- Writ Petition - filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the order passed by the Director General of Police / Respondent dated 21.11.2016 in R.C.No.187406/AP IV (2)/2014 and quash the same as illegal consequently direct the respondent to give all monetary benefits as well as earlier promotions.

For Petitioner : Mr.D.Venkatesh

For Respondents : Mr.M.Jeyakumar

Additional Government Pleader

### ORDER

The petitioner herein was appointed as Grade-II Police Constable on 09.06.1993 and subsequently promoted as Grade-I Police Constable. In connection with his involvement in a criminal case in Crime No.2600 of 2005, he was placed under suspension on 11.08.2005. The criminal case involved leakage of question papers during recruitment of Grade-II Police during the year 2005. 92 persons were implicated in the criminal case and the petitioner was arrayed as the 26<sup>th</sup> accused. The case later came to be investigated by the Central Bureau of Investigation (CBI) and on 12.12.2006, a final report was filed wherein petitioner's name was dropped.



2. In the meantime, the petitioner was issued with a charge memo on 19.08.2005, pursuant to which, a departmental enquiry was conducted and the charges against the petitioner were held to be proved. The fourth respondent herein had awarded a punishment of 'postponement of increment for two years without cumulative effect'. The punishment order, which came to be challenged, was also rejected by the first respondent on 21.11.2016, as against which, the present writ petition has been filed.

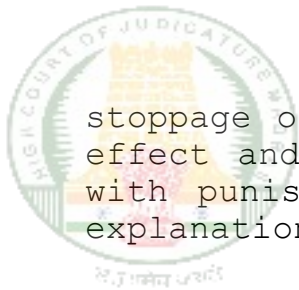
3. The learned counsel for the petitioner has placed his arguments on the ground of discrimination. According to learned counsel, the co-delinquent namely Mr.Dharmaraj, who was also arrayed as an accused in the criminal case, was dealt with similar delinquencies and was awarded with punishment of 'Black Mark'. Likewise, the other co-delinquent in the criminal case, namely Mr.T.Radhakrishnan, I.A.S., was neither placed under suspension nor was any departmental action initiated against him. Obviously, no punishment was awarded to him. In view of these discriminations, the learned counsel would submit that punishment of 'postponement of increment for two years without cumulative effect' is liable to be set aside.

4. By reiterating the statements made in the counter affidavit, the learned Additional Government Pleader would submit that the petitioner's involvement in the criminal case was duly enquired into by following the principles of natural justice and the petitioner was given ample opportunity to defend himself. He would also submit that at the time of occurrence, the co-delinquent namely, Mr.Dharmaraj was on other duty and therefore, the punishment of 'Black Mark' was awarded to him. Insofar as other co-delinquent namely Mr.T.Radhakrishnan, I.A.S., is concerned, the learned Additional Government Pleader would submit that since CBI had dropped his name from the final report, no departmental action was initiated against him.

5. I have carefully considered the submissions made by respective counsel.

6. Since the petitioner herein had raised the ground of discrimination alone for the purpose of setting aside the punishment, this Court is not inclined to go into other grounds raised by him or to the findings of the Enquiry Officer.

7. It is not in dispute that the co-delinquent, namely Mr.Dharmaraj was involved in the case in Crime No.2600 of 2015 and that after enquiry, his name came to be dropped from the charge sheet. The petitioner herein was also similarly placed as that of Mr.Dharmaraj, whose name was also dropped from the charge sheet. Apart from the same, the alibi pleaded by Mr.Dharmaraj and petitioner herein are one and the same. There is absolutely no



stoppage of increment for a period of two years without cumulative effect and the co-delinquent with similar overt acts, was imposed with punishment of 'Black Mark'. In view of the absence of any explanation, the ground of discrimination gains significance.

8. Likewise, originally the FIR came to be registered against the petitioner for his involvement in the criminal case in Crime No.2600 of 2005, Mr.T.Radhakrishnan, I.A.S., was also cited as accused No.46 in the same case. A mere involvement of the petitioner in the criminal case had prompted the respondents to frame charges against the petitioner herein, whereas similar involvement of Mr.T.Radhakrishnan was ignored. It is stated that prior to framing of charges, the petitioner herein was placed under suspension, whereas Mr.T.Radhakrishnan inspite of his involvement in the criminal case, was not suspended.

9. The aforesaid two cases of Mr.Dharmaraj and Mr.T.Radhakrishnan would clearly establish that all is not well, in the manner in which the petitioner was dealt with the punishment unlike his co-delinquent and the other person who was involved in the criminal case. In the absence of any explanation to the same from the respondents, this Court is of the affirmed view that the punishment itself awarded against the petitioner cannot be sustained, on the ground of discrimination.

10. In view of the above observations, the impugned order dated dated 21.11.2016 in R.C.No.187406/AP IV (2)/2014 on the file of the first respondent is quashed. In view of the quashing of such proceedings, the petitioner shall be entitled for all monetary and other promotional benefits, which he would have been otherwise entitled to, in the absence of the punishment awarded.

11. Writ Petition is allowed accordingly. No costs.

Sd/-

Assistant Registrar ()

// True Copy //

Sub Assistant Registrar(CS)

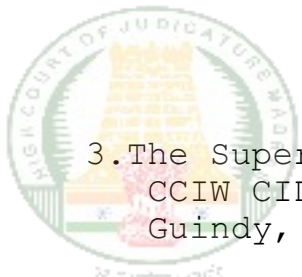
sm

To

1.The Director General of Police,  
Tamil Nadu.

2.The Additional Director General of Police,

<https://hcservices.courts.gov.in/Uservices/SecuredMail>.



3.The Superintendent of Police,  
CCIW CID,  
Guindy, Chennai.

4.The Commissioner of Police,  
Greater Chennai,  
Chennai.

+1 CC to SPL GP ( SR-103288[F] dated 04/12/2019 )

+1 CC to Mr.D.VENKATESH, Advocate ( SR-103215[F] dated 04/12/2019 )

Order made in  
W.P. (MD) No. 7118 of 2017  
03.12.2019

VB(11.12.2019) 4P 7C