



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 17.07.2019
CORAM

**THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU
AND
THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

Writ Appeal (MD) No.317 of 2017
in
WP (MD) No.24559 of 2016

Muniyasamy

.. Petitioner

Vs.

1.The Deputy Inspector General of Police,
Ramanathapuram Range.

2.The Superintendent of Police,
Ramanathapuram District,
Ramanathapuram.

3.The Deputy Superintendent of Police,
Ramanathapuram,
Ramanathapuram District.

..Respondents

PRAYER: Writ Appeal is filed under Clause 15 of Letters Patent, to set aside the order passed in W.P(MD)No.24559 of 2016 dated 23.12.2016.

Prayer in WP(MD) . 24559/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a WRIT OF CERTIORARIFIED MANDAMUS or any other Writ, or order, or direction in the nature of a Writ, and pass such further or other orders calling for the records of the impugned proceedings of the 1st respondent in his proceedings in C.No.B1/Appeal 16/2016 dated 03.08.2016 confirming the order passed by the 2nd respondent in C.No.F1/P.R.No.45/2015 dated 17.11.2015 and quash the same and consequently, direct the respondents to give suitable promotion with all monetary benefits.

For Appellant : Mr.T.Sivakumar

For Respondents : Mr.N.Shanmugaselvam
Addl. Govt. Pleader

**JUDGMENT**

[Judgment of the Court was delivered by **K.RAVICHANDRABAABU, J**]

This writ appeal is directed against the order of the Writ Court made in W.P(MD)No.24559 of 2016 dated 23.12.2016 in dismissing the writ petition filed against the order of punishment confirmed by the appellate authority.

2.Heard the learned counsel for the appellant and the learned Additional Government Pleader appearing for the respondents.

3.The writ petitioner was working as Grade-II Police Constable and thereafter, promoted as Grade-I Constable. Further promotion to the post of Head Constable was also given to the petitioner. A charge memo was issued to the petitioner on 20.03.2015 alleging that the petitioner's car was used for smuggling gold on various occasions. The departmental enquiry was conducted and thereafter, the petitioner was awarded with the punishment of compulsory retirement, by an order of the disciplinary authority dated 17.11.2015. The petitioner challenged the said order before the appellate authority, who inturn rejected the appeal on 03.08.2016. Challenging the order of the disciplinary authority and the appellate authority, the petitioner has filed the above writ petition, which came to be dismissed on 23.12.2016. The learned Single Judge has chosen to dismiss the writ petition going by the findings rendered by the enquiry officer that the petitioner's car was used for smuggling gold.

4.The learned counsel for the appellant though invited our attention to the deposition made by the witnesses before the enquiry to point out that there is no direct evidence to fix the petitioner/appellant on the charges framed against him, we are not inclined to go into all those contentions, at this stage, as we are of the view that one more fact finding authority, namely, reviewing authority is yet to consider this matter and therefore, it is for the petitioner to approach the said authority by way of filing a review, so as to enable such authority to look into the merits of the contention raised by the writ petitioner as to whether the charges are proved based on the findings rendered by the enquiry officer. Therefore, without expressing any view on the merits of the contention raised by the petitioner, this writ appeal is disposed of, however, with liberty to the petitioner to file a review before the concerned authority, within a period of two weeks from the date of receipt of a copy of this order. If any review is filed within the time stipulated, the said authority shall consider the same on its own merits and pass



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orders in accordance with law uninfluenced by any of the findings rendered by the Writ Court. No costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar (CS)

To

- 1.The Deputy Inspector General of Police,
Ramanathapuram Range.
- 2.The Superintendent of Police,
Ramanathapuram District,
Ramanathapuram.
- 3.The Deputy Superintendent of Police,
Ramanathapuram,
Ramanathapuram District.

+1cc to Mr.T.Sivakumar, Advocate, SR.No.75949

+1cc to the Spl.Govt.Pleader Sr.No.76014

skn
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NA (29.07.2019) 3P :6C