

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 03.08.2020

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. NO. 13456 OF 2013

AND

M.P. NO. 1 OF 2013

A. Prabhu ... Petitioner

- Vs -

1. The Inspector General of Police
Railways, Egmore
Chennai - 8.
2. The Superintendent of Police
Railways, Egmore
Chennai - 8.
3. The Deputy Superintendent of Police
Railways, Egmore
Chennai - 8.
4. The Dy. Inspector General of Police
Railways, Egmore
Chennai - 8.

... Respondents

Writ petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of mandamus calling for records relating to proceedings of 2nd respondent made in Na. Ka. No.F1/ PR30/2005 dated 6.11.2012 and as confirmed by the 1st respondent in his Rc. No.A2/ 234/ 2013 dated 13.3.2013 and the 4th respondents order made in Na.Ka. No. A2/ 2908/ 2010 dated 6.9.2010 to quash the same and consequently direct the respondents to forthwith extend all benefits both service and monetary including backwages etc.

For Petitioner : Ms. N.R.Jasmine Padma

For Respondents : Mr. S.Thangavel, Spl. GP

ORDER

The case of the petitioner is that he was appointed as Grade II Police Constable in the Tamil Nadu Police Force on 16.04.1997. While in service, a criminal case was registered against the petitioner in Crime No.146 of 2005 on the file of the Inspector of Police, Railway Police Station, Erode and after investigation, final report was filed u/s 8(c) r/w 20 (b) (ii) (c) & 29 of the NPDS Act alleging that the petitioner along with other police personnel, knowingly and directly transported and sold ganja to the other accused persons. Subsequent to the same, the petitioner was remanded to judicial custody pursuant to which disciplinary proceedings were initiated against the petitioner and he was placed under suspension. A charge memo was served on the petitioner, which ultimately culminated in the imposition of punishment of postponement of increment for 3 years by the 2nd respondent vide order dated 06.11.2012. Aggrieved by the said punishment, statutory appeal was filed by the petitioner before the 1st respondent, which was vide proceedings dated 13.03.2013. Aggrieved by the said rejection, the present petition has been preferred.

2. Learned counsel appearing for the petitioner while reiterating the contentions raised in the grounds, further submitted that the order of the appellate authority clearly reveals that the appellate authority has not applied its mind to the materials available on record and has passed an order, which is not only non-speaking, but clearly reflects non-application of mind on the part of the appellate authority. Therefore, it is submitted that the impugned order deserves to be set aside by allowing the present petition.

3. Learned Special Government Pleader appearing for the respondents fairly conceded that the order passed by the appellate authority is clearly non-speaking and, therefore, this Court may remand the matter back to the appellate authority for considering the matter afresh within a time frame to be fixed by this Court.

4. This Court heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondent and perused the materials available on record.

5. A perusal of the impugned order dated 13.3.13 clearly reveals that the appellate authority, without applying his mind to the materials, has passed the order, simply rejecting the appeal filed by the petitioner without discussing the materials placed before him. This Court is of the considered view that the order of the appellate authority is wholly unsustainable and it cannot be allowed to continue.

6. In such view of the matter, this Court, without expressing any opinion as to the merits of the issue and also without interfering with the order passed by the original authority, however, sets aside the order passed by the appellate authority, dated 13.3.13 and remands the matter back to the appellate authority/1st respondent herein to pass orders on merits and in accordance with law on the basis of the available records within a period of six weeks from the date of receipt of a copy of this order.

7. Accordingly, for the reasons aforesaid, this writ petition is disposed of with the aforesaid observation and direction. Consequently, connected miscellaneous petition is closed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Inspector General of Police
Railways, Egmore, Chennai - 8.
2. The Superintendent of Police
Railways, Egmore, Chennai - 8.
3. The Deputy Superintendent of Police
Railways, Egmore, Chennai - 8.
4. The Dy. Inspector General of Police
Railways, Egmore, Chennai - 8.

+1 cc to the Government Pleader Sr.No.26140

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