

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.11.2020

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THE HONOURABLE MR. JUSTICE P.VELMURUGAN

W.P.No.43095 of 2006

A.Ramanathan

... Petitioner

Vs.

1.The Commissioner of Police,  
Greater Chennai  
Egmore, Chennai - 600008.

2.The Dy.Commissioner of Police,  
Motor Transport, Chennai. ... Respondents

PRAYER : Writ petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records relating to the order of the second respondent made in PR.No.98/3(1)/2004:PR No.98/2(2)/2004 dated 27.02.2006 and as confirmed by the first respondent's order made in Rc.No.PR3(1)/442/74763/2006 dated 23.09.2006 to quash the same and consequently direct the respondents to extend all benefits both service and monetary.

For Petitioner : Mr.L.Chandrakumar

For Respondents: Mr.K.Magesh,  
Special Government Pleader

ORDER

This Writ Petition has been filed challenging the impugned order passed by the second respondent in PR.No.98/3(1)/2004:PR No.98/2(2)/2004 dated 27.02.2006 and as confirmed by the first respondent's order made in Rc.No.PR3(1)/442/74763/2006 dated 23.09.2006 to quash the same and consequently direct the respondents to extend both service and monetary benefits .

2. Heard both sides.

3. The learned counsel for the petitioner would submit that one Rajalakshmi borrowed money from the petitioner but she could not repay the amount, subsequently, she transferred the power of attorney of the property which stands in her name in favour of the petitioner. He executed a sale deed.

Subsequently, a criminal case was also filed against the petitioner framing 7 charges and that case is still pending. Since the Charge No.7 is yet to be decided, it cannot be held that the charges leveled against the petitioner have been proved. He would further submit that though this Court in its earlier order in W.P.No.21167 of 2006 dated 07.07.2006 had set aside the order of the respondent and remitted back the matter to the Appellate Authority to pass a fresh Speaking Order, even after such order being passed, the Appellate Authority has once again committed the same mistake. Even after the petitioner submitted his explanation, the order passed by the Appellate Authority was a non-speaking order and without considering the explanation and also the submission made by the petitioner, the Appellate Authority once again passed only a non-speaking order, therefore, it is liable to be set aside.

4. Learned Special Government Pleader would submit that though based on the power of attorney, the property was said to have been executed in favour of the petitioner and when the sale deed was executed, a criminal case was registered against the petitioner and it was found that the power of attorney has been forged and a departmental inquiry was conducted. The petitioner also admitted that the said power of attorney and the execution of sale deed was in the name of his wife and therefore, a charge memo was served. There were totally 7 charges framed against the petitioner and the Inquiry Officer conducted the detailed inquiry and submitted a report. Based on the report, the punishment of removal from service was imposed on the petitioner. Subsequently the petitioner filed a writ petition before this Court in W.P.No.21167 of 2006 and this Court found that the Appellate Authority had not passed any speaking order and the opportunity was also not given, therefore, the Court observed that the liberty shall be given to the Appellate Authority to pass fresh order in accordance with law within a period of eight weeks and subsequently, the matter was remitted back to the Appellate Authority and the Appellate Authority on considering the materials on record passed a non-speaking order.

5. Admittedly, the petitioner was working as Constable in the Tamil Nadu Police Department. A charge memo was issued in which there were totally 7 charges leveled against the petitioner. Subsequently, the explanation was called for from the petitioner. Since the Department was not satisfied with the explanation, the punishment of removal from service was imposed on him. Challenging the said order, he filed the present writ petition before this Court.

6. On a careful perusal of the order passed by the Appellate Authority and the charges leveled against the petitioner, this Court finds that the inquiry conducted by the Inquiry Officer holds good, since he was a Constable in Police Department and the same was Uniform Service. The petitioner has not disputed the power of attorney executed by Rajalakshmi

in favour of the petitioner and subsequently, he executed power of attorney in favour of his wife and nowhere it is stated that he has got permission from the Government immediately or sought a permission to rectify the same.

7. Considering all the facts and circumstances of this case, this Court finds no perversity in the order passed by the Appellate Authority and there is no merit in the writ petition, accordingly, this Writ Petition is dismissed. No costs.

Sd/-  
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

1.The Commissioner of Police,  
Greater Chennai  
Egmore, Chennai - 600 008.

2.The Dy.Commissioner of Police,  
Motor Transport, Chennai.

+1cc to to M/s.L.Chandrakumar Advocate SR.NO.36112

+1cc to the Government Pleader SR.NO.35895

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RR CO  
SDR 14/12/2020

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