

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.02.2020

CORAM:

THE HON'BLE MR.JUSTICE M.GOVINDARAJ

W.P.NO.22625 OF 2008

S.Karuppasamy

... Petitioner

Vs.

1.The State of Tamil Nadu
Rep. by its Secretary to Government
Home Department
Fort St. George, Chennai - 9.

2.The Director General of Police
Kamarajar Salai,
Mylapore,
Chennai - 600 004.

3.The Superintendent of Police
District Police Office
Sivagangai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, to call for the entire records connected with the impugned order passed by the first respondent in G.O.(2D) No.299, Home (Pol-V) Department, dated 10.05.2006 and G.O.(2D) No.599, Home (Pol-VI) Department, dated 13.09.2007 and Letter No.10544/Pol VI/08-4 dated 04.08.2008 and quash the same with the consequential direction, directing the respondents to repay the amount of increments by restoring the original scale of pay to the petitioner.

WEB COPY

For Petitioner : Mr.V.Ravikkumar

For Respondents: Mr.P.Chinnadurai
Additional Government Pleader

O R D E R

The petitioner while deputed as Guard Commander for the District Police Office Guard, Sivagangai, a charge memo was issued to him. As per the charge memo dated 25.08.2003, the petitioner has failed to discharge his duties on 05.06.2003 and 06.06.2003 in not depositing the cash box into the iron cash chest and in not verifying the leather seal over it. An enquiry was conducted following the principles of natural justice and the punishment of stoppage of increment for one year with cumulative effect was imposed. Against which, the petitioner preferred an appeal and revision, which were also dismissed confirming the order of punishment. Aggrieved over the same, the petitioner is before this Court.

2. According to the learned counsel for the petitioner, the impugned order passed by the first respondent is in clear violation of principles of natural justice and without application of mind. It is an admitted fact that the petitioner was deputed to undergo the Parade for giving "Guard of Honour" to the Deputy Inspector General of Police, when the incident had taken place. After having found that he was not on duty, he was charged for the alleged lapses. The Disciplinary Authority, without recording any reasons for accepting the findings of the Enquiry Officer and also without recording reasons for arriving at the quantum of punishment, has mechanically passed the impugned order of punishment. The same was confirmed by the Appellate Authority and the Revisional Authority by way of cryptic orders. This amounts to violation of principles of natural justice.

3. Per contra, the learned Additional Government Pleader appearing for the respondents relying on the counter affidavit filed by the respondents would contend that though the petitioner was deputed as Guard Commander, his primary duty is to be present when the cash box is deposited in the iron cash chest and to check leather seal made on the cash box. On 06.06.2003, the seal was found tampered and the petitioner has failed to verify the same and report before the higher authority. His absence at the time of deposit of the cash box into the iron cash chest and his recklessness in not checking the tampering of the leather seal is a gross misconduct and contrary to rules. Therefore, the minor punishment was imposed for the lapses and it does not warrant interference as principles of natural justice have been fully complied.

4. I have considered the rival submissions.

5. The main issue is revolving around the presence of the petitioner at the time of the incident. Admittedly, on

06.06.2003, the cash box was deposited in the iron cash chest. As per the duties and responsibilities attached to the petitioner as Guard Commander, he must be present along with the Sentry Police when the cashier deposits the cash box into the iron cash chest. But, on the given date, it is even recorded by the Enquiry Officer that he was directed to be present at the Parade organised for giving Guard of Honour to the Deputy Inspector General of Police during his visit. If that be so, he could not have been present at the time of the deposit of cash box. In that event, it is incumbent on the prosecution to explain about the duties of the petitioner to be present at that place and the alternative arrangements to be made by him and as to how he failed in his duty. Curiously, no such issue was addressed.

6. From a reading of the impugned order in G.O.(2D) No.299, Home (Pol.V) Department, dated 10.05.2006 imposed by the first respondent, it is seen that it does not record any reasons for accepting the findings of the Enquiry Officer and for arriving at the quantum of punishment. It simply states that on examining the charges, explanation, findings of the Enquiry Officer and further representation of the delinquent along with revenue records, the penalty of stoppage of increment for one year with cumulative effect was imposed. Other than this, no other reason as to why such penalty imposed was recorded. Even though the petitioner has raised many grounds in his appeal, the appellate authority without considering any of them passed a very cryptic order in G.O.(2D) No.599, Home (Pol.VI) Department, dated 13.09.2007 that the appeal was rejected as devoid of merits. The revision also received the same fate by two line order.

7. In the considered opinion of this Court, any order passed without recording reasons, will amount to violation of principles of natural justice. In the peculiar facts and circumstances of the case, the admitted position was that the petitioner was on some other duty at the time of incident and that issue was not specifically addressed by the respondents, much less, the Disciplinary Authority, while passing the original order of penalty. Such orders passed without material evidence and without recording reasons for arriving at a conclusion is perverse and violative of principles of natural justice and are not sustainable. Accordingly, the impugned order without recording any reasons and without proving the lapses on the part of the petitioner is illegal and is liable to be set aside.

8. Accordingly, the impugned orders passed by the first respondent in G.O.(2D) No.299, Home (Pol-V) Department, dated 10.05.2006 and G.O.(2D) No.599, Home (Pol-VI) Department, dated

13.09.2007 and Letter No.10544/Pol VI/08-4 dated 04.08.2008 are set aside and the writ petition is allowed as prayed for. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

TK
To

1.The Secretary to Government
State of Tamil Nadu
Home Department
Fort St. George, Chennai - 9.

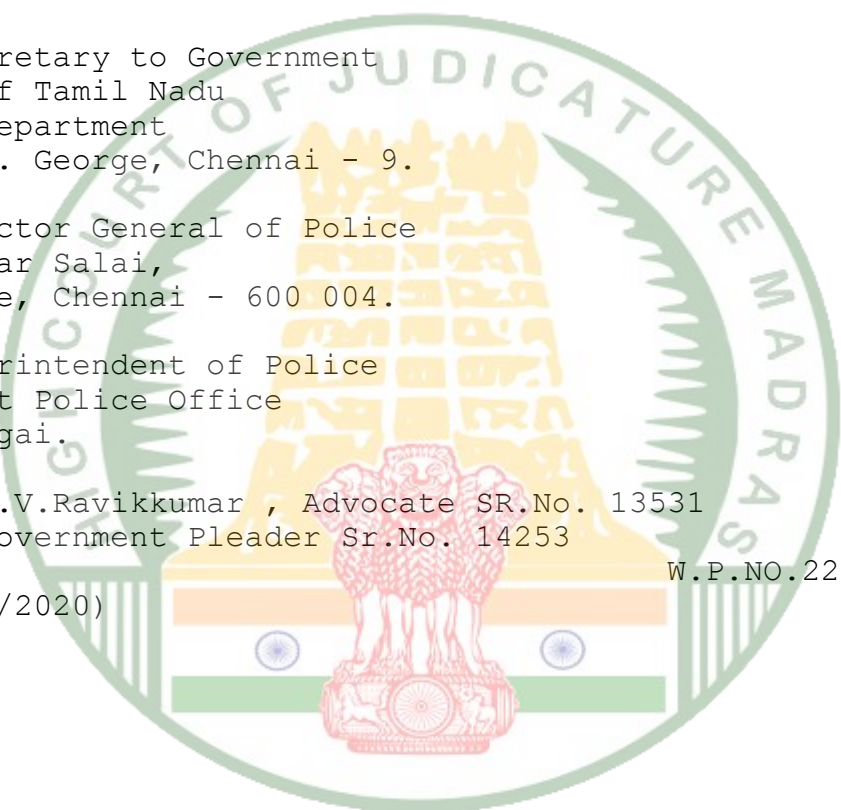
2.The Director General of Police
Kamarajar Salai,
Mylapore, Chennai - 600 004.

3.The Superintendent of Police
District Police Office
Sivagangai.

+1cc to Mr.V.Ravikkumar , Advocate SR.No. 13531
+1 cc to Government Pleader Sr.No. 14253

W.P.NO.22625 OF 2008

A.SK(07/08/2020)



सत्यमेव जयते

WEB COPY