

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.11.2020

CORAM

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

W.P. 47656 of 2006

Krishnamoorthy

... Petitioner

Versus

1.The Superintendent of Police,
District Police Office,
Karur.

2. The Superintendent of Police,
District Police Office,
Perambalur.

... Respondents

PRAYER: Writ petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for the records of the 2nd respondent herein Na.Ka.No.C3/10306/2006 dated 17.10.2006 and quash the same.

For Petitioner : Mr.S.V.Karthikeyan for
Mr.R.Gopinath

For Respondents : Mr.P.Chinnadurai
Additional Government Pleader

O R D E R

This Writ Petition has been filed challenging the order of the second respondent herein in Na.Ka.No.C3/10306/2006 dated 17.10.2006, imposing punishment of reduction in time scale of pay by two stages for the period of two years.

2. The allegation levelled against the petitioner is that the petitioner had love affair with one P.Vembu, daughter of Pakkirisamy for eight years and promised to marry her, but subsequently he married his sister's daughter in the year 20.04.2005. On 27.04.2005 said Vembu filed a complaint before the department and thereafter charge memo dated 06.09.2005, was issued to the petitioner and thereafter departmental enquiry was conducted and in the enquiry report it is stated that the

allegation levelled against the petitioner was proved and therefore he was awarded with reduction in time scale of pay by two stages for the period of two years.

2. The learned counsel for the petitioner would submit that allegation against the petitioner is that after entering into service on 14.09.2004, he married his sister's daughter on 20.04.2005. Whereas the said Vembu preferred a complaint on 27.04.2005. Though the petitioner has given the explanation that was not considered and charge memo was issued against him on 06.09.2005 and consequential charge memo was issued on 05.10.2006 and thereafter enquiry was conducted and impugned order was passed on 05.10.2006 by the second respondent holding that the charges are proved against him. He would further submit that the documents sought for by the petitioner has not been furnished to him and further his explanation was also not considered. He would further submit that the alleged misconduct committed by the petitioner before entering into service does not falls under Rule 3 (b) of the Tamil Nadu Police Subordinate Rules. In support of the same he relied upon the Judgment of Allahabad High Court in Huzbar Uddin Vs. Director General of Police reported in 2006 (5) All, LJ 625 . Hence, he prays to set aside the order of punishment dated 17.10.2006.

3. The learned Additional Government Pleader would submit that during enquiry four witnesses have been examined and all the witnesses have stated that initially the petitioner had love affair with one Vembu and promised to marry her. But subsequently, after getting job he married his sister's daughter and thus cheated Vembu and therefore explanation was not called for and Charge Memo was issued and not satisfied with the explanation, enquiry was conducted and charges levelled against the petitioner were proved and impugned order of reduction in time scale of pay by two stages for the period of two years was passed.

4. Heard both sides and perused the materials available on record.

5. Admittedly, the petitioner joined the service as Head constable in the respondent department in the year 1999 and he married his sister's daughter on 20.04.2005. It is noted from the records that on 27.04.2005 Vembu preferred a complaint against the petitioner stating that the petitioner had a love affair with her and promised to marry her and the relationship continued for eight years. Thereafter, after entering into service he married another lady and therefore the said Vembu preferred a complaint against the petitioner. A perusal of the records would go to show that allegation levelled against the petitioner is that after entering into the service in the year 1999, he married with his sister's daughter on 20.04.2005. Even

assuming that petitioner promised Vembu, the promise was made before entering into service. Therefore, at the time of conducting marriage with his sister's daughter she would have filed complaint and after entering into service after five years she filed a complaint. Under these circumstances, this Court finds that the explanation offered by the petitioner has not been considered by the respondent and the order of punishment imposed by the respondent is liable to be set aside.

Accordingly the order of the second respondent herein in Na.Ka.No.C3/10306/2006 dated 17.10.2006 is set aside and this Writ Petition is allowed. No costs.

Sd/-

Assistant Registrar

***corrected order**

Sd/-

Sub Assistant Registrar(CO-II)

22/01/2021

//True Copy//

Sub Assistant Registrar

arr

To

1.The Superintendent of Police,
District Police Office,
Karur.

2.The Superintendent of Police,
District Police Office,
Perambalur.

+1cc to Mr.S.V.Karthikeyan, Advocate SR.35686

PA(CO)

CB(11/12/2020)

CB(22/01/2021)

W.P. 47656 of 2006

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