



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.03.2020

CORAM:

THE HON'BLE MR. JUSTICE T.RAJA

W.P.No.38152 of 2004

R.Chandrasekaran

Vs

.. Petitioner

1.The Director General of Police,
Chennai - 4.

2.Inspector General of Police
(Law and Order),
Chennai.

3.Deputy Inspector General of Police,
Villupuram Range,
Villupuram District.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorari to call for the records of the respondents 1 to 3 pertaining to the impugned order of the first respondent passed in proceedings in R.C.No.290695/PR.I(2)/2002-I, dated 13.10.2004, confirming the impugned order of the second respondent passed in proceedings in RC.No.265468/AP.I(2)/99, dated 31.12.1999 confirming the impugned order of the third respondent passed in Range Order No.381/99/C.No.B2/PR.57/99, dated 06.08.1999 and quash the same.

For Petitioner : Mr.Naveen Kumar Murthi
for Mr.R.Santhanam

For Respondents: Ms.Thanga Vadhana Balakrishnan, AGP

ORDER

The present writ petition is directed against the impugned order dated 13.10.2004 passed by the first respondent/Director General of Police, Chennai, confirming the orders passed by the respondents 2 and 3 imposing a punishment of reduction in time scale of pay by three stages for three years with cumulative effect.



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2. Learned counsel for the petitioner would submit that while the petitioner was working as Sub-Inspector of Police in Kadampuliyur Police Station, he was issued with a charge memo dated 31.03.1999 under Rule 3(b) of the Tamil Nadu Police Subordinate Service Rules, containing the following charge:

" Highly reprehensible conduct in having registered a false case against two innocent bus passengers Tvl.Chandrabose and Balasubramanian who were possessing Rs.3,50,000/- in Kadampuliyur Police Station Cr.No.76/99 under section 41 and 102 CrI.P.C. and allowing two cheats who pretended as N.C.B. Officers to escape from police custody, when they were handed over by bus crew and passengers on 9/10.2.99 at about 03.30 hrs. at Kadampuliyur Police Station."

On receipt of the charge memo, the petitioner had submitted his explanation dated 23.06.1999 denying the charge and stated that during the night hours of 09.02.1999, Tvl.Chandrabose and Balasubramanian of Pudukkottai District were travelling in Chennai-Pattukottai bus with a cash of Rs.3,50,000/- and when the said bus was nearing Kadampuliyur, driver of the bus stopped the bus due to mechanical problem and thereafter, when the bus was about to start, two strangers posing themselves as officers of Narcotic Control Bureau (NCB) boarded the bus and insisted the aforesaid individuals to get down from the bus alleging that they were in possession of Narcotic Substances. However, they refused to get down from the bus and hence, the bus crew took the bus to Kadampuliyur Police station and handed over all the four persons to a Sentry Police Constable. Thereafter, on the direction of Inspector of Police, the petitioner, being a Sub-Inspector of that police station, came to the spot and thereby produced two impostors before the Inspector of Police who was staying at Ranga Lodge, Panruti, and later on, on instruction, the petitioner had registered a case against Chandrabose and Balasubramanian in Cr.No.76/99 under Sections 41 and 102 Cr.P.C. on the file of Kadampuliyur Police Station, but, those two impostors, who were entrusted to the Inspector of Police at Lodge, had escaped from the spot.

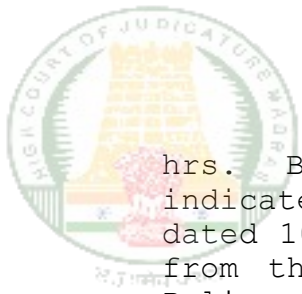
3. Continuing further, learned counsel for the petitioner would submit that since two impostors escaped when there were in the custody of the Inspector of Police at Range Lodge, the petitioner cannot be held responsible, besides, as per the direction of the Inspector of Police, he had registered case against Chandrabose and Balasubramanian. Secondly, when the petitioner was serving only as Sub-Inspector of Police during his probation period, he had to carry out the instruction given by his immediate superior officer. Therefore, in the case on hand, as directed, the petitioner had produced those two



impostors before the Inspector of Police at Ranga Lodge and thereby he had discharged his duties as per the instruction given by his immediate superior officer, therefore, he cannot be blamed for such lapse committed by the Inspector of Police. However, this explanation was not accepted and finally, enquiry officer found him guilty on completion of the enquiry. Thereafter, third respondent had imposed the punishment of reduction in time scale of pay by three stages for three years with cumulative effect. The said punishment imposed against the petitioner is wholly illegal and unsustainable, for, at the time of occurrence, the petitioner was only a probationer and he had discharged his duty only as per the instruction of his immediate superior officer, namely, Inspector of Police. Thus, the charge levelled against the petitioner that he had allowed two impostors to escape from the police custody is unsustainable in law.

4. Referring to a judgment of the Hon'ble Apex Court in the case of Inspector Prem Chand Vs. Government of NCT of Delhi and Others [(2007) 4 SCC 566], learned counsel argued that misconduct means, misconduct arising from ill motive; acts of negligence, errors of judgment, or innocent mistake, do not constitute such misconduct. Therefore, in the case on hand, there is no misconduct as far as the petitioner is concerned, for, he had proceeded only on the instruction given by the Inspector of Police, hence, in view of peculiar circumstances, initiation of disciplinary proceedings against the petitioner cannot take place at all. Besides, circumstances of the case would reveal that the Inspector of Police is responsible for escapement of two impostors and therefore, the petitioner being a probationer should be given lenience, hence, imposition of punishment on par with Inspector of Police is not advisable, for the reason that imposition of major punishment, namely, reduction in time scale of pay by three stages for three years with cumulative effect, would seriously prejudice the petitioner, because, he cannot get promotion in due course and this apart, he has to face monetary loss, hence, some leniency should be shown against the petitioner as he was only a probationer at that time of occurrence and on this basis, he prayed for quashing the impugned orders passed by the respondents.

5. Per contra, learned Additional Government Pleader appearing for the respondents would submit that the petitioner, being a Sub-Inspector of Police in Kadampuliyur Police Station, without even conducting enquiry, has registered a false case against two innocent bus passengers in Cr.No.76/99 and thereafter, he had allowed two cheats, who pretended as Narcotic Control Bureau (NCB), to escape from the police custody when they were handed over by bus crew on 10.02.1999 at about 03.30



hrs. Besides, the explanation offered by the petitioner itself indicates his double stand, for, on the one hand, in the FIR dated 10.02.1999, he had stated that those two impostors escaped from the spot when the bus was stopped near the Kadampuliyur Police Station; but, on the other hand, he had taken a different stand in the explanation dated 23.06.1999 stating that he had produced those two impostors before the Inspector of Police at Ranga Lodge, Panruti, and thereafter, only at the instance of the Inspector of Police, those two impostors escaped from the police custody. Therefore, the disciplinary authority, disbelieving his explanation, appointed the enquiry officer, who has also, in his report, on completion of the enquiry, found him guilty. Thus, it is clear that the petitioner has not shown any devotion or seriousness while discharging his duties and this apart, the third respondent/disciplinary authority, by showing some leniency imposed only a lighter punishment of reduction in time scale of pay by three stages for three years with cumulative effect and thereafter, the said punishment was also rightly confirmed by the appellate authority. Therefore, on this basis, she has prayed for not to interfere with the lighter punishment imposed by the respondents.

6. I fully agree with the above said submission. The petitioner, who served as Sub-Inspector of Police in Kadampuliyur Police Station, had registered a case in Cr.No.76/99 under Sections 41 & 102 of Cr.P.C. against Chandrabose and Balasubramanian and stated in the FIR that when the bus was stopped in front of the police station, those two impostors who pretended as Narcotic Control Bureau (NCB) ran away from that spot. But, in the explanation dated 23.06.1999 submitted by him to the Enquiry Officer, he had stated that as per the direction of the Inspector of Police, he had produced those two impostors before the Inspector of Police at Ranga Lodge, Panruti, from where, those two impostors escaped from the police custody and therefore, the petitioner cannot be held responsible as he was only a probationer at that time and has discharged his duties as directed by his immediate superior officer.

7. The Enquiry Officer, in view of such dual stand taken by the petitioner, after analyzing the evidence and after perusing the documents filed during the course of enquiry, found the petitioner guilty of the charge levelled against him. Thereafter, the disciplinary authority, considering the gravity of delinquency committed by the petitioner, imposed the punishment of reduction in time scale of pay by three stages for three years with cumulative effect. Subsequently, after due consideration, his appeal and review petitions were also dismissed by the Appellate Authority and Review Authority.



8. It is well settled that the writ courts will not act as an appellate court and reassess the evidence let in the domestic inquiry, nor interfere on the ground that another view is possible on the material on record. Therefore, courts will not interfere with findings of fact recorded in departmental enquiries, except where such findings are based on no evidence or where they are clearly perverse. In the case on hand, as stated above, after perusing the documents as well as the explanation submitted by the petitioner, the Enquiry Officer found the petitioner guilty of the charge levelled against him and thereafter, the same were considered by the disciplinary authority, appellate authorities and the review authority and all of them have reiterated imposition of punishment of reduction in time scale of pay by three stages for three years with cumulative effect. Therefore, this Court finds it difficult to venture into re-appreciation of evidence sitting under Article 226 of the Constitution of India.

Thus, for the reasons stated above, the writ petition fails and the same is dismissed as devoid of any merit. No Costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

rkm

To

1.The Director General of Police,
Chennai - 4.

2.Inspector General of Police
(Law and Order),
Chennai.

3.Deputy Inspector General of Police,
Villupuram Range,
Villupuram District.

+lcc to Mr.S.Varsha, Advocate, S.R.No. 21903
+lcc to the Government Pleader, S.R.No. 22669

W.P.No.38152 of 2004

PM(CO)
GN(01/07/2020)