



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.01.2020

C O R A M

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

WP.No.23801 of 2010

and

MP.No.1 of 2010

R.Jayaraman

... Petitioner

Vs.

1.The Deputy Inspector General of Police,
Salem,
Salem District.

2.The Superintendent of Police,
Salem,
Salem District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the entire records relating to the order passed in C.No.B1/588/6944/2010 dated 06.09.2010 on the file of the first respondent confirming the order of punishment roll in S.O.65/2010 dated 03.04.2010 (PR No. and date of Order : 257/H3/05 u/r.3(b)) on the file of the second respondent, quash the same and consequently direct the respondents to restore all monetary and service benefits.

For Petitioner : Mr.P.Ganesan

For respondents : Mr.P.Chinnadurai,
Additional Government Pleader

O R D E R

Challenging the punishment of postponement of next increment for two years without cumulative effect, the petitioner has preferred the above Writ Petition.

2. The petitioner was appointed as a Constable (Grade II) on 11.07.1978 and he was promoted as Constable (Grade I) on 01.01.1995 and Head Constable with effect from 22.07.1999. While he was in service, he was issued with a charge memo for certain lapses. There were four charges framed against him. They are (i) the petitioner has left the Head Quarters on 14.02.2005 without getting permission, (ii) he had taken leave for 21 days without getting prior permission for leave, (iii)



he had received bribe from bootleggers and (iv) he was an accomplice to the illicit activities of assaulting some persons. The enquiry officer was appointed and he has held that charges 1 and 2 were proved and charges 3 and 4 were not proved. The Disciplinary Authority imposed the punishment of postponement of next increment for two years with cumulative effect, against which, the petitioner preferred an appeal dated 27.05.2010 to the first respondent and the same was rejected in proceedings C.No.B1/588/6944/2010, dated 06.09.2010 against which the present Writ Petition is filed.

3. The respondents have filed a detailed counter affidavit and the learned Government Advocate has made submissions on the basis of the averments made in the counter affidavit. According to the respondents, the petitioner was given permission to take rest on 14.02.2005 and he should have stayed within the jurisdictional limits of the Police Station, whereas, he left the jurisdictional Police Station and went to various places. Thereafter, without obtaining leave or permission he was absent for 21 days and then submitted a Medical Certificate belatedly. Therefore, the punishment of postponement of increment for a period of two years without cumulative effect is just and proper and the above Writ Petition need not be entertained.

4. Heard the rival submissions.

5. Admittedly on 14.02.2005, the petitioner was given permission to take rest. Even if allegations were made that he went out of the jurisdiction of Police Station, materials on record reveal that he went out for taking treatment at Government Hospital. Since his health was not well, he had applied for medical leave. Therefore, it is clear that the petitioner had gone out only to take treatment. The respondents instead of referring the petitioner to the Medical Board, have taken it as an act of disobedience and imposed punishment. It is pertinent to note that the respondents have not denied the fact that the petitioner was suffering from some ailment and he required leave. But he was punished only for the reason that he had taken leave without prior permission and without applying for leave. Other than this, no other strong reason was attributed against the petitioner. On the contrary, the materials disclose that the Controlling Officer has given permission to the petitioner to take rest on health grounds. That being so, it leads to only to a natural presumption that the petitioner was ill and had gone to take treatment in the Government Hospital. While these facts are not disputed, it cannot be construed that the petitioner had deliberately and wilfully disobeyed the orders of the superiors. Consequentially leave taken by him on health grounds before its approval appears to be unintentional. The charge memo framed on these grounds and the punishment order imposed by the Disciplinary Authority reveals that the Disciplinary Authority failed to apply its mind to the facts



an circumstances of the case. On appeal, the Appellate Authority has simply found that the enquiry officer had held the charges proved and it was accepted by the disciplinary authority and hence the punishment is confirmed. The appellate authority without considering the material evidences, grounds of appeal and without assigning reasons for his conclusion, has passed the order mechanically. Thus, considering the fact that the charges were not proved beyond reasonable doubt and that the preponderance of probabilities is in favour of the petitioner, I am inclined to set aside the punishment of postponement of next increment by two years. The order passed by the first respondent in C.No.B1/588/6944/2020 dated 06.09.2010 is quashed.

6. In the result, the Writ Petition is allowed. No order as to costs. Consequently, the connected Miscellaneous Petition is closed. The petitioner is entitled to all monetary and attendant benefits. It is submitted by the learned counsel appearing for the petitioner that the petitioner has reached the age of superannuation and retired from service. The respondents are directed to workout and disburse the monetary and attendant benefits to the petitioner within a period of two months from the date of receipt of a copy of this order.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

mbi

To

1.The Deputy Inspector General of Police,
Salem,
Salem District.

2.The Superintendent of Police,
Salem,
Salem District.

+1cc to Mr.C.S.Associates, Advocate, S.R.No. 4061

+1cc to the Government Pleader, S.R.No. 4361

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and

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RK(CO)

GN(01/07/2020)

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