

IN THE HIGH COURT OF JUDICIATURE AT MADRAS

DATED : 25.02.2020

CORAM :

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

W.P.No.25469 of 2012
and M.P.No.2 of 2012

A.Ahamed Ali

...Petitioner

versus

1. The Director General of Police,
Kamarajar Salai,
Chennai - 4.
2. The Commissioner of Police,
Chennai Police, Chennai - 8.
3. The Deputy Commissioner of Police,
Central Crime Branch,
Chennai.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records on the file of the respondents 2 and 3 in connection with the orders passed by them in their Proc.Th.Ko.No.284/PR-II(1)/2003 dated 06.11.2009 and C.No.53/14399/PR-II(1)/2010 dated 07.08.2012 respectively and quash the same and direct the respondents to reinstate the petitioner in service with all monetary and service benefits.

For Petitioner : Mr.G.Mohana Krishnan
For Respondents : Mr.P.Chinnadurai
Additional Government Pleader

O R D E R

Challenging the order of removal from service, the petitioner has approached this Court in W.P.No.9160 of 2012. By an order dated 10.04.2012, this Court, after considering the case of the petitioner has set aside the punishment and directed the second respondent therein to consider the Appeal afresh on the following lines:

"4. The learned Special Government Pleader took notice on behalf of the respondents and submitted that the matter may be remitted to

the appellate authority for passing fresh orders in the light of the statutory provision under Rule 6 of the Tamil Nadu Police Subordinate Services (Discipline and Appeal) Rules, 1955.

5. Rule 6 of the Tamil Nadu Police Subordinate Services (Discipline and Appeal) Rules, 1955 mandates how the appeal is to be dealt with by the appellate authority.

6. How the appellate authority shall consider the appeal and pass orders in appeal is decided in the Division Bench decisions of this Court reported in (1983) 2 MLJ 513 (G.Srinivasan v. The Government of Tamil Nadu, rep. by The Commissioner and Secretary to Government, Revenue Department, Madras-9); 2008 WLR 86 (The Joint Commissioner of Police & Another v. G.Anandan); and in the decisions of the Supreme Court reported in AIR 1986 SC 1040 : (1986) 2 SCC 651 (R.P.Bhat v. Union of India); (2006) 4 SCC 713 (Narinder Mohan Arya v. United India Insurance Company Ltd & Others) and (2009) 2 SCC 570 (Roop Singh Negi v. Punjab National Bank and Others).

7. In view of the above statutory provision and decisions cited supra, the impugned order of the second respondent dated 27.1.2010 is set aside and the matter is remitted to the second respondent to consider the appeal filed by the petitioner afresh in accordance with the statutory provision as well as the decisions cited supra, within a period of three months."

2. Despite the direction, the second respondent in his proceedings in C.No.53/14399/PR-II(1)/2010 dated 07.08.2012, has passed the following cryptic order:-

"5. I have gone through the connected records. The enquiry officer has followed correct procedure and his findings are supported by evidence. Given the gravity of delinquency, the public servant, assisted the criminal in disposing stolen property, has no place to continue in public service and the quantum of punishment is adequate and on perusal of his appeal petition afresh, there is no material warranting interference with the punishment. It is considered and rejected on the grounds stated above."

3. A reading of the order passed by this Court deals with Rule 6 of the Tamil Nadu Police Subordinate Services (Discipline and Appeal) Rules, 1955 and the judgments reported in (1983) 2 MLJ 513 (G.Srinivasan v. The Government of Tamil Nadu, rep. by The Commissioner and Secretary to Government, Revenue Department, Madras-9); 2008 WLR 86 (The Joint Commissioner of Police & Another v. G.Anandan); AIR 1986 SC 1040 (R.P.Bhat v. Union of India); (2006) 4 SCC 713 (Narinder Mohan Arya v. United India Insurance Company Ltd & Others) and (2009) 2 SCC 570 (Roop Singh Negi v. Punjab National Bank and Others), which mandates adherence of principles of natural justice, application of mind and fair discussion for arriving at conclusion with reasons. While disposing of appeal, the appellate authority shall not mechanically extract the contents of punishment order and declare he is confirming the same, rather he has to address the grounds raised against the order and record reasons for accepting or rejecting the same.

4. In spite of specific mention about the judgments with cause titles, the second respondent has passed the cryptic order in utter disregard to the order of this Court. Hence, the impugned order passed by the second respondent in his proceedings in C.No.53/14399/PR-II(1)/2010 dated 07.08.2012, is set aside and the matter is remitted back to the second respondent for fresh consideration. The second respondent shall pass orders, within a period of one month, as per the direction issued by this Court in W.P.No.9160 of 2012, failing which, the impugned order shall stand quashed.

5. The Writ Petition is disposed of accordingly. Consequently, connected Miscellaneous Petition is closed. However, there is no order as to costs.

Sd/-

सत्यमेव जयते Assistant Registrar(CS I)

//True Copy//

Sub Assistant Registrar

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To

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

2. The Commissioner of Police,
Chennai Police, Chennai - 8.

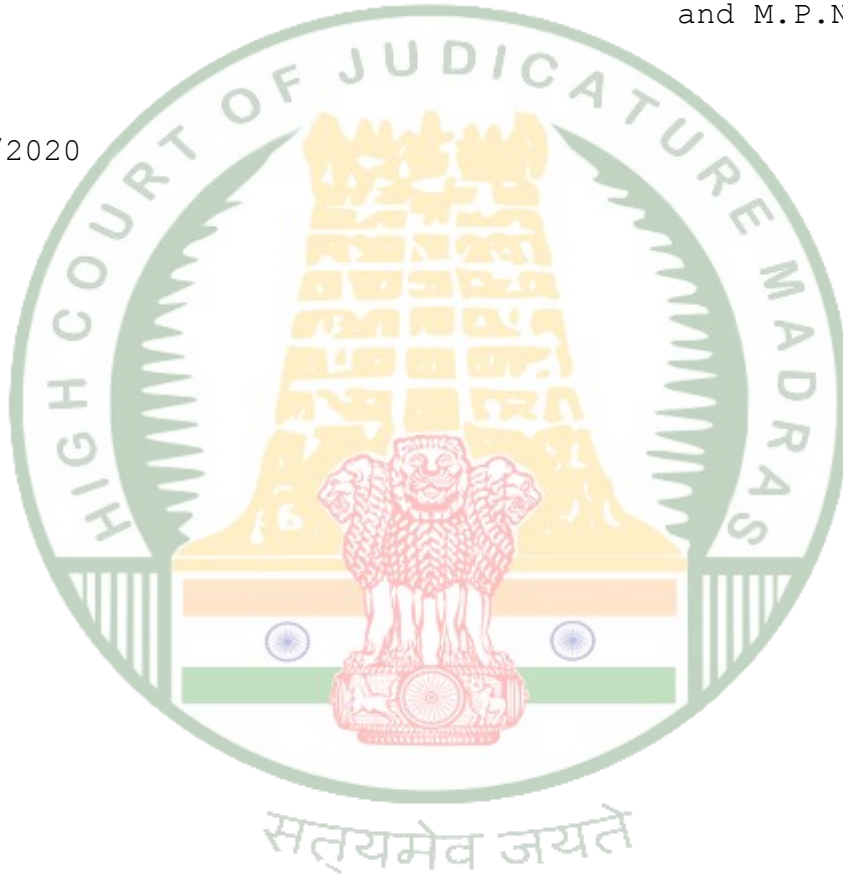
3. The Deputy Commissioner of Police,
Central Crime Branch, Chennai.

+1cc to Mr.G.Mohanakrishnan, Advocate, S.R.No.16164

+1cc to Gpvernment Pleader, S.R.No.16744

W.P.No.25469 of 2012
and M.P.No.2 of 2012

VBA(CO)
KKV/17/07/2020



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