

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on 24.01.2020	Delivered on 28.01.2020
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CORAM:

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P.No.34022 of 2018

Mr.A.K.Thangapandiayan

.. Petitioner

.Vs.

1.The Director General of Police,
Post Box No.601,
Dr.Radhakrishnan Salai,
Mylapore,
Chennai 600 004.

2.The Inspector General of Police,
Central Zone, Trichy,
[i/c] the Deputy Inspector General of Police,
Trichirapalli Range.

3.The Deputy Commissioner of Police,
Head Quarters [Enquiry Officer],
Coimbatore City,
Coimbatore.

.. Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining impugned order of the 2nd respondent bearing no.C.No.B2/PR.25/2016, daed 11-04-2017 and the order of the 1st respondent bearing NoRc.No.080832/A-I [1]/2017 dated 05.05.2018 and quash the same and consequently direct the respondents to grant all consequential benefits and other attendant benefits.

For Petitioner : Mr.D.Selvam

For Respondents : Mr.P.S.Sivashanmugasundaram
Special Government Pleader

O R D E R

This Writ Petition has been filed challenging the order passed by the 2nd respondent dated 11.04.2017, which was subsequently confirmed by the 1st respondent by order dated 05.05.2018. The petitioner was working as the Sub Inspector of Police and he was issued with a Charge Memo dated 09.02.2016, by the 2nd respondent. Three Charges were levelled against the petitioner. The same is set forth hereunder:

1st Charge:

High handed action and misuse of official powers in threatening special Sub Inspector of Police, Thiru.Marimuthu and made telephonic contacts to Assistant Commissioner of Police, West Crime and Inspector Thiru.Pavulraj and preventing them in the investigation of Cr.No.64/2015 u/s 379 IPC to protect his brother Thiru.Sreenivasa Pandian, who is the accused in this case on 02.02.2015.

2nd Charge:

Perfunctory investigation in Pothanur PS Cr.Nio.50/2014 u/s 379 IPC on 26.01.2014 in not verifying the correctness of the property (lorry) involved in this case.

3rd Charge:

Indifferent conduct and misuse of official powers in forcing Special Sub Inspector of Police Thiru.Abdul Rahseed to implicate one Parameswarar @ Kannan falsely in Cr.Nos.787/2014 and 801/2014 on 03.11.2014 of Pothanur Police Station.

2.The petitioner gave his explanation for the Charge Memo. An Enquiry Officer was appointed and the petitioner participated in the enquiry and a report was also filed. The petitioner was furnished with the enquiry report and he was called upon to give further explanation.

3.The 2nd respondent after considering the explanation given by the petitioner and also the findings of the enquiry report, came to the conclusion that all the three Charges have been proved and therefore, he proceeded to impose the punishment of postponement of increment for three years which will operate to postpone his future increments.

4.The petitioner aggrieved by this order, filed an appeal before the 1st respondent and the 1st respondent by an order dated 05.05.2018, rejected the appeal and confirmed the

order passed by the 2nd respondent. Aggrieved by the same, the present Writ Petition has been filed before this Court.

5.Mr.D.Selvam, learned counsel appearing on behalf of the petitioner submitted that all the three Charges that were levelled against the petitioner is false. The learned counsel submitted that the 1st Charge that was levelled against the petitioner to the effect that he prevented the Investigation Officer from conducting the investigation against one Sreenivasa Pandian, who is the brother of the petitioner, is concerned, the petitioner had denied the Charge and there were absolutely no materials to substantiate the Charge except the statement that was made by the concerned Special Sub Inspector of Police during enquiry. The learned counsel submitted that the petitioner was alleged to have threatened the Investigation Officer through phone call. However, no phone call details were placed during the enquiry.

6.The learned counsel submitted that the 2nd Charge against the petitioner to the effect that he did not properly investigate the case in Cr.No.50 of 2014, is also not sustainable since the investigation was completed and the petitioner was only collecting details as to the real owner of the property (lorry) in order to handover the lorry to the real owner. Therefore, the learned counsel submitted that there is no basis for the 2nd Charge that was made against the petitioner. The learned counsel further submitted that the 3rd Charge against the petitioner to the effect that he misused his official powers to implicate a person, is also not sustainable. The learned counsel submitted that the petitioner was not even the Investigation Officer in the concerned case and therefore, there is no question of falsely implicating anyone in the case.

7.The learned counsel submitted that there was absolutely no evidence against the petitioner and some of the Officers who had a

grudge against the petitioner have given false evidence and the same was relied upon by the respondents and the punishment was imposed against the petitioner.

8.The learned counsel concluded his arguments by submitting that the punishment imposed by the respondents is totally disproportionate to the Charges levelled against the petitioner and therefore, the punishment imposed by the respondents is liable to be interfered by this Court.

9.The 3rd respondent has filed a counter affidavit in this Writ Petition. It has been stated in the counter that there was sufficient evidence to substantiate all the three

Charges against the petitioner. It is further stated that there were totally 26 witnesses, who were examined and 33 documents that were marked during enquiry. It is further stated that the petitioner was given the opportunity to cross examine the witnesses and only after affording such reasonable opportunity, the respondents found the Charges to be proved and the punishment was imposed against the petitioner.

10.Mr.P.S.Sivashanmugasundaram, learned Special Government Pleader appearing on behalf of the respondents submitted that there is overwhelming evidence against the petitioner by way of statements given by the witnesses. The learned counsel submitted that the scope of interference against an order of punishment is very limited and unless this Court finds that the punishment has been imposed without any evidence or that it was imposed without giving opportunity to the petitioner or that the respondents did not have the jurisdiction to impose such a punishment, the same cannot be interfered by this Court in exercise of its jurisdiction under Article 226 of the Constitution of India. The learned counsel submitted that the punishment imposed against the petitioner is commensurate with the Charges levelled against the petitioner and there is absolutely no scope for interference.

11.This Court has carefully considered the submissions made on either side and the materials available on record.

12.Before venturing into considering the facts of the present case, this Court must remind itself that this Court has a very limited jurisdiction to interfere with a punishment imposed by a Disciplinary Authority. It is now a well settled principle of law that this Court can interfere in exercise of its jurisdiction under Article 226 of the Constitution of India, only where a decision is illogical or suffers procedural impropriety or is shockingly disproportionate. Even, where two views are possible, this Court cannot impose its view to the view taken by the Disciplinary Authority.

13.In the present case, three Charges were levelled against the petitioner and those charges have been extracted supra.

14.The 1st Charge against the petitioner was that he used his influence and prevented the Investigation Officer from investigating the case that was registered against the brother of the petitioner in Cr.No.64/2015 and he was asked to drop the proceedings. In order to prove this Charge, the concerned Investigation Officer had deposed during enquiry and had stated that the petitioner called him over phone and asked him to drop the case that was pending against his brother. There was one

more witness, namely the complainant in that case who had also spoken about the incident. There is no dispute with regard to the fact that the accused in the concerned case was the brother of the petitioner. The only defence that was raised by the petitioner is that except for the statement made by the witness, there was absolutely no documentary evidence to show that the petitioner made any such phone call to the Investigation Officer. The further defence taken by the petitioner was that the FIR itself came to be stayed before the High Court.

15. The Disciplinary Authority had given the finding that the witnesses have clearly spoken about the incident and there is nothing to show that the witnesses had any ill will against the petitioner. That apart, one of the witness was a Police Officer, who investigated the case and therefore, his version about the incident cannot be brushed aside. The mere non-production of documentary evidence by itself cannot lead to the conclusion that the Charge has not been proved.

16. Even insofar as the 2nd and 3rd Charges are concerned, the Disciplinary Authority has specifically referred to the statements made by the witnesses and also the relevant documentary evidence that was relied upon. Only after analyzing the evidence, the Disciplinary Authority has given a finding even insofar as the 2nd and 3rd Charges are concerned.

17. In the present case, totally 26 witnesses were examined and 33 documents were marked during enquiry. The Disciplinary Authority has relied upon the evidence and has come to the conclusion that the Charges have been proved and has imposed the punishment. The standard of proof in disciplinary proceedings is only preponderance of probabilities and it need not be proved beyond reasonable doubts like in a criminal case.

18. This Court also does not find the punishment imposed by the 2nd respondent to be disproportionate to the Charges levelled against the petitioner. The petitioner is a Police Officer and a Police Officer is supposed to maintain a higher level of discipline. This is more so due to the high powers vested on Police Officers. Considering the same, this Court finds that the punishment is commensurate with the Charges levelled against the petitioner. The Appellate Authority has also considered the defence taken by the petitioner and the findings of the Disciplinary Authority and he did not find any ground to interfere with the same.

19. In the considered view of this Court, there is no ground to interfere with the orders passed by the 2nd respondent, which was subsequently confirmed by the 1st respondent.

In the result, this Writ Petition is dismissed. There shall be no order as to costs.

Sd/-
Assistant Registrar

// True Copy//

Sub Assistant Registrar
KP

To

1. The Director General of Police,
Post Box No. 601,
Dr. Radhakrishnan Salai,
Mylapore,
Chennai 600 004.
2. The Inspector General of Police,
Central Zone, Trichy,
[i/c] the Deputy Inspector General of Police,
Trichirapalli Range.
3. The Deputy Commissioner of Police,
Head Quarters [Enquiry Officer],
Coimbatore City,
Coimbatore.

+1cc to Mr. D. Selvam, Advocate, SR.No. 6424.
+1cc to Government Pleader, SR.No. 7188.

Order made in
W.P.No. 34022 of 2018

SSI (CO)
CSR: 24.01.2020

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