



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.02.2020

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P. (MD) No.10918 of 2010

and

M.P(MD) .No.1 of 2010

P.Ramachandran

....Petitioner

vs.

1.The Director General of Police
Chennai

2.The Deputy Inspector General of Police
Ramanathapuram Range

3.The Superintendent of Police
Ramanathapuram District

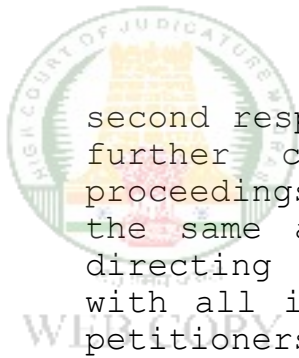
...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of Certiorarified Mandamus, to call for the records of the respondents, especially the punishment order issued by the third respondent pursuant to his proceedings, viz., final order made in எப்.3/த.ப.எண்.158/08 பிரிவு 3(அ) dated 29.01.2009 as confirmed by the second respondent made in C.No.B1/Appeal 33/2009 dated 17.04.2009 as further confirmed by the first respondent pursuant to his proceedings made in Rc.No.136928/AP1(2)/2009 dated 10.12.2009 quash the same as null and void, illegal and invalid and consequently directing the second respondent to restore the petitioner's scale with all increments besides disbursing the amount reduced from the petitioners regular scale.

For Petitioner	:	Mr.C.Venkateshkumar for Mr.K.Sureshkumar
For Respondents	:	Mr.D.Muruganandham Additional Government Pleader

ORDER

The Writ petition has been filed to call for the records of the respondents, especially the punishment order issued by the third respondent pursuant to his proceedings, viz., final order made in எப்.3/த.ப.எண்.158/08 பிரிவு 3(அ) dated 29.01.2009 as confirmed by the



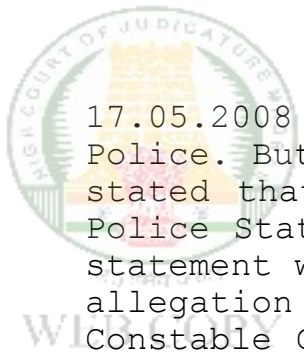
second respondent made in C.No.B1/Appeal 33/2009 dated 17.04.2009 as further confirmed by the first respondent pursuant to his proceedings made in Rc.No.136928/AP1(2)/2009 dated 10.12.2009 quash the same as null and void, illegal and invalid and consequently directing the second respondent to restore the petitioner's scale with all increments besides disbursing the amount reduced from the petitioners regular scale.

2. According to the petitioner, he was appointed as Police Constable Grade-II on 25.10.1984 and thereafter, he was promoted as Police Constable Grade-I on 22.07.1997 and Head Constable on 22.07.2002. While the petitioner was serving as Head Constable at Mudukulathur Police Station, Ramanathapuram District, he was issued with a charge memo in P.R.No.158/2008, dated 04.09.2008 under rule 3 (a) of Tamil Nadu Police Subordinate Service Rules 1955 alleging that based on the complaint given by one Ramarpandi on 17.05.2008 against one Boominathan and Shahul, the petitioner and Selvaraj, Police Constable Grade-I brought the two persons to the police station and assisted the Sub Inspector of Police who threatened and received a sum of Rs.7500/- from those persons. On receipt of said charge memo, the petitioner submitted his explanation on 14.11.2008. The Deputy Superintendent of Police, Paramakudi (Enquiry Officer) submitted his report by his proceedings dated 18.01.2009 that the charges were proved. Subsequent to that, the third respondent by his proceedings dated 29.01.2009 imposed a punishment order of 'postponement of increment for the period of three years without cumulative effect'. Against which, the petitioner preferred an appeal before the Deputy Inspector General of Police, Ramanathapuram, the second respondent herein on 02.03.2009 and the same was rejected by the second respondent on 17.04.2009. Against which, the petitioner preferred a review petition before the first respondent, the Director General of Police, on 22.06.2009 and the same was rejected by the first respondent on 10.12.2009. Aggrieved over the same, the petitioner is before this Court.

3. The learned Additional Government Pleader appearing for the respondents would submit that the petitioner had assisted with the Sub Inspector of Police on 17.05.2008 and produced the complainant and the alleged persons for enquiry before the Sub Inspector of Police, Thiru.Athirstaraj on the complaint given by one Ramarpandi and threatened the alleged persons namely Boominathan and Syed and received a sum of Rs.7,500/- and thereby committed the delinquency. Therefore, the allegation is very serious and hence, he prayed for dismissal of this Writ petition.

4. Heard the learned counsel for the petitioner as well as the learned Additional Government Pleader appearing for the respondents.

5. Perusal of record shows that the findings of the enquiry officer is based on the statement given by one Ramarpandi on

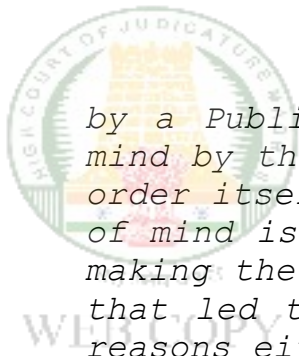


17.05.2008 during preliminary enquiry before the Inspector of Police. But, in his statement, dated 09.11.2008, he has specifically stated that he has not at all given any complaint in Mudukulathur Police Station on 17.05.2008 as alleged in the charge memo and that statement was never considered by the enquiry officer. But, the main allegation is that the petitioner accompanied with Selvaraj Police Constable Grade-I and brought the alleged two persons to the Police Station on 17.05.2008. Whereas the said Selvaraj has given a statement on 06.11.2008 to the Deputy Superintendent of Police, Paramakudi that he never accompanied with the petitioner to bring the alleged persons to the police station as alleged in the charge memo and that he gave such a statement on the request of the Inspector of Police, Mudukulathur. On perusal of the above two statements have completely ruled out the charge against the petitioner. However, the statements of Ramarpandi and Selvaraj not all considered by the Enquiry Officer, Disciplinary authority and the appellate authority. Perusal of record shows that on 17.05.2008, the petitioner was not at all present in the Police Station during the time of alleged occurrence. The petitioner had left the Police Station at 8.00 hours along with Head Constable No.1642 to perform beat duty in various places mentioned the beat ticker and reported back at 21.00 hrs. The petitioner had given detailed explanation, but neither the disciplinary authority nor the appellate authority has considered the explanation of the petitioner. Therefore, there is no independent finding as to the contention of the petitioner as to why the disciplinary authority has given explanation to the report of the enquiry officer. The appellate authority at least ought to have considered the appeal of the petitioner in proper perspective as contemplated under Rule 6(1) of the Tamil Nadu Police Subordinate Service (Discipline & Appeal) Rules, 1955 and the impugned orders being the cryptic order and no independent reason has been given why the appellate authority has accepted the order passed by the disciplinary authority.

6.The learned counsel for the petitioner would rely on the Judgement reported in **2008(2) MLJ 1018 (SC)** in the case of **Divisional Forest Officer, Kothagudem Vs.Mathusudhan Rao** and another Judgment reported in **2010(1) MLJ 714** in the case of **V.Chellappa Vs.Superintending Engineer, TNEB**.

7. Reasoning is the soul of the order. The order which does not contain any reason for conclusion can be termed to be a non speaking order. The Hon'ble Supreme Court in the decision in **East Coast Railway and another vs. Mahadev Appa Rao and others**, reported in **(2010) 7 SCC 678**, has held in paragraph No.23 as follows:

"23.Arbitrariness in the making of an order by an authority can manifest itself in different forms. Non application of mind by the authority making the order is only one of them. Every order passed



by a Public authority must disclose due and proper application of mind by the person making the order. This may be evident from the order itself or the record contemporaneously maintained. Application of mind is best demonstrated by disclosure of mind by the authority making the order. And disclosure is best done by recording reasons that led the authority to pass the order in question. Absence of reasons either in the order passed by the authority or in the record contemporaneously maintained, is clearly suggestive of the order being arbitrary hence legally unsustainable."

8. In a recent decision of the Supreme Court in **2008 (1) Supreme Today 617, (Divisional Forest Officer, Kottagudem's case)** one of the contentions was that the appellate/revisional authorities have failed to consider the grounds raised before them and that the orders passed thereto are cryptic without any detailed reasons. While dealing with the above said contention, the Supreme Court re-affirmed the decision rendered earlier in **R.P.Bhatt's case** and **Ram Chander v. Union of India** reported in **1986 (3) SCC 103** and at Paragraph 19 of the judgment, held as follows:

"19. It is no doubt also true that an appellate or revisional authority is not required to give detailed reasons for agreeing and confirming an order passed by the lower forum, but in our view, in the interests of justice, the delinquent officer is entitled to know atleast the mind of the appellate or revisional authority in dismissing his appeal and/or revision. It is true that no detailed reasons are required to be given, but some brief reasons should be indicated even in an order affirming the views of the lower forum."

9. The above Judgments are squarely applicable to the facts of the present case. In view of the aforesaid reasons, this Court is inclined to interfere with the orders. Accordingly, the orders passed by the respondents are quashed and this Writ petition is allowed. At this juncture, the learned counsel for the petitioner would submit that the petitioner retired from service. Therefore, the second respondent is directed to re-fix the pay and restore the petitioner's scale with all increments besides disbursing the amount reduced from the petitioner regular scale, within a period of twelve weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (co)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)

Msa



To

1.The Director General of Police
Chennai

2.The Deputy Inspector General of Police
Ramanathapuram Range

3.The Superintendent of Police
Ramanathapuram District

+1 CC to SPL.GP (SR-7532[F] dated 21/02/2020)

+1 CC to Mr.K.SURESH KUMAR, Advocate (SR-7247[F] dated 20/02/2020)

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