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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **24.02.2020**

CORAM:

THE HONOURABLE **MR. JUSTICE M. S. RAMESH**

W.P. (MD) No. 2607 of 2020

and

W.M.P. (MD) Nos. 2251 and 2252 of 2020

D.karthick

... Petitioner

/vs./

The Additional Director General of Police &
Inspector General of Prisons,
C.M.D.A. Tower,
2, Gandhi Erwin Road,
Egmore, Chennai-8.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the records pertaining to the proceedings of the respondent in his proceedings No.24000/EW2/2018 dated 21.06.2019 and quash the same as illegal.

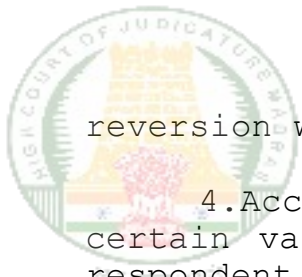
For Petitioner	:	Mr.S.M.Mohan Gandhi
For Respondent	:	Mr.C.M.Marichelliah Prabhu Additional Government Pleader

ORDER

The petitioner herein, who was serving as Grade-II Warder, was imposed to the punishment of postponement of next increment for 3 years without cumulative effect on 21.01.2014 and another punishment of deduction of pay by two stages for a period of two years without cumulative effect on 23.07.2015.

2. Based on the proposal of the Superintendent of Prison, the petitioner was included in the draft list of Grade-I Warder fit for promotion as Grade-I Warder on 07.09.2018 and accordingly, he was promoted on 12.10.2018. Subsequently, when the Superintendent of Prison, had informed the respondent herein on 14.06.2019 that the punishment of "postponement of next increment for 3 years without cumulative effect" has been wrongly noted as "postponement of next increment for 3 months without cumulative effect", the respondent herein had passed the impugned order, reverting the petitioner to the post of Grade-II Warder and post him to the Central Prison, Madurai. Aggrieved against the same, the present writ petition is filed.

3. Though the petitioner herein had raised several grounds <https://hcservices.courts.gov.in/hcservices/> impugned order of reverting, the learned counsel for the petitioner would submit that the petitioner herein was not put on prior notice calling upon for his objections, before the order of



reversion was passed.

4. According to the learned counsel for the petitioner, he has certain valid objections with regard to the reversion made by the respondent and therefore, sought for remanding the matter back for the purpose of giving his objections.

5. The learned Additional Government Pleader appearing for the respondent would submit that the mistake was inadvertently made by misconstruing the punishment as postponement of next increment for "three months", instead of "3 years" and even if any prior notice is given, the petitioner will not have any valid objections, since it is only a mistake. In view of the mistake, the petitioner was wrongly promoted to the post of Grade-I Warder and therefore, there is no infirmity in the order passed by the first respondent herein.

6. I have heard the submissions made by the respective counsels and perused the materials carefully.

7. The learned counsel for the petitioner would submit that even assuming the respondent had wrongly reverted to the period of punishment, as mentioned in the impugned order, in view of the passage of time, the punishment itself had been effected and therefore, there was no effect on the wrong mention of the punishment. In other words, it is the submission that the mistake committed will not affect his promotion.

8. When the petitioner seems to have an objection to the mistake committed and the consequent reversion through the impugned order, it would be just and necessary on the part of the respondent herein to call for the petitioner's objections, before adhering to revert the petitioner. In the absence of such and prior notice, the present impugned order could be termed to be in violation of the principles of natural justice and hence, this Court would be justified in setting aside the order by invoking extraordinary power under Article 226 of the Constitution of India. However, if the respondent is granted liberty to issue a show cause notice in contemplation of their intended action, the ends of justice could be secured.

9. In the light of the above observations, the impugned order dated 21.06.2019 on the file of the respondent is set aside and the matter is remitted back to the respondent. In case, the respondent intends to continue with the action, liberty is hereby granted to issue a show case notice with regard to the mistake committed in reverting the petitioner's punishment, as revealed in the order dated 21.06.2019, which is impugned in the present writ petition, with the sufficient time to the petitioner to give his objections. On receipt of such show-cause notice, it is open to the petitioner to give their objections, which shall be duly considered by the respondent and further action shall be taken only on the basis of the consideration of the petitioner's objection, as expeditiously as



possible.

10. This Writ Petition stands disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

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Sd/-

Assistant Registrar (Crl Side)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)

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To

The Additional Director General of Police &
Inspector General of Prisons,
C.M.D.A. Tower,
2, Gandhi Erwin Road,
Egmore, Chennai-8.

+1 CC to M/s.S.M.MOHAN GANTHI, Advocate (SR-8350[F] dated
26/02/2020)

W.P. (MD) No. 2607 of 2020
24.02.2020

KK/20.03.2020/ 3P- 3C

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