



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 01.09.2020

DELIVERED ON : 09.11.2020

CORAM:

THE HONOURABLE MR.JUSTICE RMT. TEEKAA RAMAN

WP(MD).No.3072 of 2015

A. Kumaresan

... Petitioner

Vs.

1. The State of Tamil Nadu
rep. by the Principal Secretary,
Home (Prison - 5) Department,
Fort St. George,
Chennai - 09.

2.The Additional Director General of Police &
Inspector General of Prisons,
CMDA Tower No.I, Gandhi Irwin Road,
Egmore, Chennai-8.

3.The Deputy Inspector General of Prisons,
Madurai Range,
Madurai - 16.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ Certiorari calling for the records pertaining to the impugned order of minor punishment in No.12285/C.S.1/2010 - 1, dated 04.11.2011 on the file of the second respondent and the consequential confirmation order in G.O.(2D). Ms.No.783, Home (Prison -1) Department, dated 23.12.2013 on the file of the first respondent and quash the same.

For petitioner : Mr. T. Lajapathi Roy
For Respondents : Mr. J. Gunaseelan Muthiah
Additional Government Pleader

ORDER

This Writ Petition has been filed to quash the impugned order of minor punishment in No.12285/C.S.1/2010 - 1, dated 04.11.2011 on the file of the second respondent and the consequential confirmation order in G.O.(2D).Ms.No.783, Home (Prison -1) Department, dated 23.12.2013 on the file of the first respondent and quash the same.

2. The brief facts that are necessary for the case of the petitioner are as follows:

(i) While the petitioner herein was acting as Additional Superintendent of Prisons at Central Prison, Madurai, the Range Deputy Inspector General of Prisons, conducted surprise inspection, on 19.03.2010 at Central Prison, Madurai along with Police



Department officials. During the inspection, the following lapses were found on the part of the petitioner.

i) As per para Record there were 24 convict Prisoners in the 6th Block. However, on verification there were only 14 Prisoners in the said Block. No details were recorded in respect of other Remand Prisoner.

(ii) Life convict Prisoner No.4918, Thiru. Gubendiran, Son of Ayya Devar, who was confined in the VI Block of the said Prison did not wear the convict uniform.

(iii) On verification of Stock Register, some of the food items were found in excess and some were found in short as detailed below:

S.N o	Details of the items	Stock as per Stock Register (kgs)	Stocke found during surprise check (Kgs)	Excess shortage (kgs)	Value
1.	Tamrind	560.751	565.250	4.499	173.21
2.	Ground nut oil	4907.759	4908.100	0.341	26.58
3.	Ground nut	464.400	464.750	0.350	15.78
4.	Cumin seeds	200.835	20..900	0.065	10.24
Total excess					225.81
5.	Fried gramdhal	1004.040	995.700	8.340	316.92
6	Vegetables	276.000	161.500	114.500	1330.49
7	Potato	18.040	16.500	1.540	40.66
Total shortage					1688.07

(iv) The petitioner did not verify the Stock Register for the period from 23.02.2010 to 19.03.2010 and he did not sign in the Stock Register. His action is in total violation of Rule 30(15) of the Tamil Nadu Prison Rules, 1983 and in violation of Rule 20 of the Tamil Nadu Government Servants Conduct Rules, 1973.

(v) The Departmental disciplinary action was initiated against the petitioner under Rule 17(a) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, vide Charge Memo No.12285/CS1/2010, dated 30.03.2010 of the Additional Director General of Police / Inspector General of Prisons. After careful consideration of the explanation given by the petitioner to the charge memo and on conclusion of the disciplinary proceedings, the Additional Director General of Police / Inspector General of Prisons imposed the punishments of "Stoppage of increment for a period of one year without cumulative effect" on the petitioner vide his



proceeding No.12285/CS1/2010-1, dated 04.11.2011. The appeal, dated 12.01.2012 preferred by the petitioner against the said punishment was rejected by the Government vide G.O.(2D) No.783, Home (Prison -I), Department, dated 23.12.2013. Hence, the Writ Petition has been filed.

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3. The learned counsel appearing for the petitioner submitted that there was a personal bias by the then Deputy Inspector General of Police in connection with the driver who met with an accident. As the petitioner has deposed a factual ground of the duty which was not in accordance with oral instructions given by the Deputy Inspector General of Police. Hence, the then Deputy Inspector General of Police has took out the matter and framed these minor charges. In respect of charges, he has also submitted as to shortage of ration articles and one of the prisoner is not wearing uniform. He has stated that the Assistant Jailor (Clothing) was responsible for wearing uniform. He further submitted that it is the duty of the concerned Assistant Jailor and Deputy Jailor and hence, there is no lapse on the part of the petitioner and hence, it cannot not be shifted to the shoulders of the petitioner.

4. The learned counsel for the petitioner submitted that some of his junior has subsequently promoted, while this petitioner was forced to retire as a Superintendent of Police and hence, he submitted that though the punishment is minor in nature he was successfully prevented from becoming Deputy Superintendent of Police on the date of the retirement and hence, he challenged the impugned order on the ground of personal bias as well as he is not responsible for the lapse alleged.

5. Mr. J. Gunaseelan Muthiah, learned Additional Government Pleader appearing for the respondents would contend that the petitioner has foisted with responsibility under Rule 30(15) of the Tamil Nadu Prison Rules, 1983 and he is responsible for the shortage of ration articles as borne out from records and he has not signed in the stock register for more than one month and the work was not allotted properly. However, the minor charges have been framed under Rule 17(a) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules and Rule 30(15) of the Tamil Nadu Prison Rules and Rule 20 of the Tamil Nadu Government Servant Conduct Rules.

6. The petitioner also served with two other charge memo resulted in filing of W.P(MD).Nos. 9656 of 2015 and 9706 of 2015, for which arguments were heard and separate orders are passed.

7. The ground of the delinquency is that at the relevant point of time, the Deputy Inspector General of Prison was in Coimbatore holding the additional charge at Madurai. The Car Driver who took the Ambassador Car of the Deputy Inspector General of Prison on 16.03.2020 bearing Regn.No. 01 AG 777 has met with an



accident in which the Constable Balamurugan died. When he attempted to give a report, the Deputy Inspector General of Prison asked him to give a false information as to on whose authorisation the Car was taken but he refused to give false information as per instructions given by the Deputy Inspector General of Prisons. Hence, the said officer has developed personal animosity and hence, with personal bias, four charge memos within a period of six months, which has resulted in two other Writ Petitions.

8. In respect of the charge in this case is concerned, the petitioner, in his explanation, stated that for the lapse of confinement of lesser number of prisoners in the VI Block than actually shown in the para Register, Chief Head Warder was responsible. Similarly, for the lapse of one prisoner not wearing uniform, the petitioner stated that Assistant Jailor (Clothing) was responsible and for excesses and shortages in Ration Stores, Deputy Jailor (Stores) was responsible and thus, he put entire blame on his subordinates. But, it is seen that as per Rule 30(15) of the Tamil Nadu Prison Rules, 1983 it is the responsibility of the Additional Superintendent of Prisons to check ration Stock book.

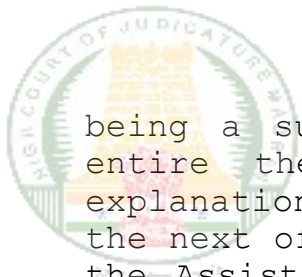
9. The stand of the petitioner was rejected by the disciplinary authority as well as the Appellate Authority, this Court has asked the Government Pleader as to whether any action has been taken against the officer in charge of the ration stores books or Assistant Jailor or Deputy Jailor (Stores). However, it appears that no action nor charge memo has been issued to the Officer vested with the work provided to the ration stores.

10 (a). The petitioner herein is the only Supervisory officer and hence, any shortage of ration or clothing, the concerned officer viz., Officer in charge Assistant Jailor or Officer incharge rations or Deputy Jailor has also to be held responsible and to be proceeded with under rules. However, it appears that the third respondent has not initiated action against the person responsible. However, it seems that he has choose to take action against only the Superior Officer.

10 (b). It is to be stated that merely because, all the four charges against the petitioner were initiated within a short period of six months, that per se will not be termed as personal bias against the petitioner by the third respondent. In respect of the alleged personal bias, the delinquent also produced copies of the Fax message along with representation.

11. For the reasons best known neither the disciplinary authority nor the Appellate Authority, more so, the review authority have not taken into the said explanation.

12. Taking into consideration that quantum of the ration that has been allotted and the shortage has projected in the charge memo



being a sum of Rs.1688/- which is found to be intangible as to entire the volume of several lakhs. In the absence of any explanation or initiation any departmental proceedings nor even on the next officer concerned or to the officer incharge of the seat or the Assistant Jailor nor the Deputy Jailor concerned, I find that all is not well with the charge memo. It is no doubt true that the petitioner being Additional Superintendent of Jailor has to supervise and check the ration store books, however, taking note of the minor shortage and in the absence of any explanation as to why the officer incharge of the said Assistant Jailor (Clothing) or Deputy Jailor are not even a minimum charge has been issued with the disciplinary proceedings. The petitioner was chosen for targeting. Hence, I find that there is merits in the contention of the petitioner counsel and that there is personal bias between the petitioner and the third respondent. Taking into consideration that the charges are relating to shortage of certain materials in the stock Register though it is a minimum, however, as he required to act as in Supervisory capacity, I find that the finding of the appellate authority need not be interfered with.

13. However, as to the quantum of punishment is modified into postponement of increment for six months without cumulative effect only and hence, this Writ Petition is allowed in part and the order of the finding of the appellate authority is to be shortage of materials is confirmed. However, the quantum of punishment is modified as to the extent indicated above. No costs.

Sd/-

Assistant Registrar (P&A)

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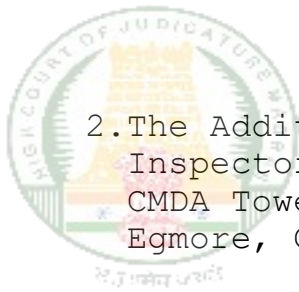
Sub Assistant Registrar(CS)

trp

NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

The Principal Secretary,
Home (Prison - 5) Department,
Fort St. George,
Chennai - 09.



2.The Additional Director General of Police &
Inspector General of Prisons,
CMDA Tower No.I, Gandhi Irwin Road,
Egmore, Chennai-8.

3.The Deputy Inspector General of Prisons,
Madurai Range,
Madurai - 16.

+1 CC to M/s.SPL GP (SR-21724[F] dated 10/11/2020)

+1 CC to M/s.T. LAJAPATHI ROY, Advocate (SR-21961[F] dated
11/11/2020)

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