



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 10.09.2020

DELIVERED ON : 09.11.2020

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

WP(MD).No.9706 of 2015

WEB COPY

A. Kumaresan

... Petitioner

Vs.

1. The State of Tamil Nadu
rep. by the Principal Secretary,
Home (Prison - 1) 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.

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.10699/C.S.1/2011, dated 03.11.2011 on the file of the second respondent and the consequential confirmation order in G.O.(2D). Ms.No.156, Home (Prison -1) Department, dated 07.05.2015 on the file of the first respondent and quash the same.

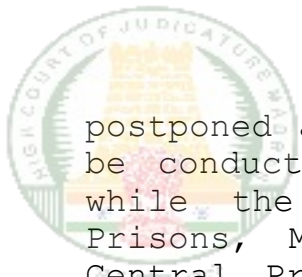
For petitioner : Mr.Karthick
for Mr.T.Lajapathi Roy
For Respondents : Mr. M.Muniasamy
Additional Government Pleader

ORDER

This Writ Petition has been filed to quash the impugned order of minor punishment in No.10699/C.S.1/2011, dated 03.11.2011 on the file of the second respondent and the consequential confirmation order in G.O.(2D).Ms.No.156, Home (Prison -1) Department, dated 07.05.2015 on the file of the first respondent and quash the same.

2. Brief facts of this case :

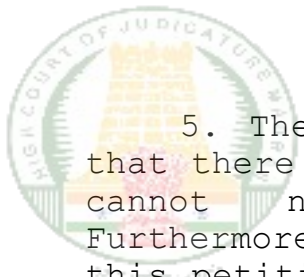
The petitioner was working as a Additional Superintendent of Prisons, due to surprise visit of the second respondent, the scheduled half yearly inspection of the third respondent was



postponed and the petitioner was informed that the inspection will be conducted on 26.08.2010 at 8.00 a.m., however, on 26.08.2010, while the third respondent i.e., Deputy Inspector General of Prisons, Madurai Range,, conducted Half - yearly Inspection at Central Prison, Madurai at 8.00 hours, the petitioner who was incharge of the Superintendant, Central Prison, Madurai was not present at Central Prison, Madurai, even though he was orally informed of the same on the night of 25.08.2020 after the second respondent left the Central Prison, Madurai. But, he entered into the prison only at 8.05 hours on 26.08.2010 and the same was proved as per the entries made in the "in and out register". It is alleged that the above act of the petitioner exhibited his disobedience to superior officers.

3. It is further alleged that it is the duty of the petitioner to come early to the Prisons, prior to the arrival of Inspection Officer, for making preparatory arrangements for the half-yearly inspection, scheduled to take place in the Prison, instead the petitioner is blaming the inspecting officer i.e., the third respondent that he had not been informed properly. Hence, he was issued a charge memo under Rule 17(a) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, dated 14.09.2010.

4. According to the explanation submitted by the petitioner no tour programme was given by the third respondent about the visit of the third respondent on early occasion. On the previous day viz., the tour programme of the Deputy Inspector General of Prisons, i.e., the third respondent denotes half yearly inspection, on 25.08.2010. The petitioner made all arrangements on that day. But, no inspection was conducted on the said day. There was a sudden visit of superiors on 25.08.2010 at 9.55 p.m. Hence, all necessary arrangements were made to take up the inspection on 25.08.2010. But, the third respondent did not visit Central Prison, Madurai, on 25.08.2010 for half yearly inspection. On 25.08.2010, second respondent at 23.15 hours made a surprise visit and came to Central Prison, Madurai and the third respondent also accompanied the second respondent and visited the Central Prison, Madurai. The second respondent left the prison at 2.10 hours on 26.08.2010 early morning. During that time, the petitioner asked 3rd respondent regarding the half-yearly inspection, and in turn, the third respondent orally informed that as they left Prison very late on 25.08.2010, the half-yearly inspection would be conducted at 9.00 hours on 26.08.2010, for which, no written tour programme was issued. Further, the petitioner had also stated that, to take revenge on him, the third respondent knowing that, he had not come to prison at 8.00 hours on 26.08.2010, he entered prison at 8.00 hours on 26.08.2010. But, when he came to know that the third respondent entered Prison at 8.00 hours, the petitioner came to Prison at 8.05 hours and no inconvenience occurred and the half yearly inspection was completed smoothly.



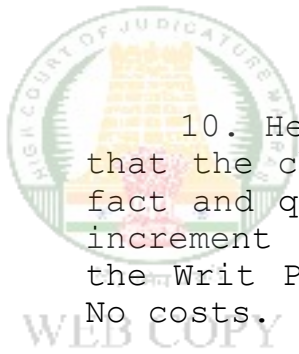
5. The learned counsel appearing for the petitioner submitted that there is no lapse on the part of the petitioner and hence, it cannot not be shifted to the shoulders of the petitioner. Furthermore, some of his junior has subsequently promoted, while this petitioner was forced to retire as a Superintendent 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.

6. On considering the contention of the charge memo and an explanation submitted by the petitioner, the substance of the charge is that on 14.09.2010, half yearly inspection was conducted by the third respondent in Central Prison, Madurai. On 26.08.2010 at 8.00 am for which the petitioner came late by five minutes.

7. In the explanation by the petitioner, he has specifically averred that there was no tour programme regarding the alleged half yearly inspection was served in the programme scheduled and on 25.08.2010 no inspection was conducted on that day.

8. Further, as there was a receipt of Seniors on 25.08.2010, the second respondent came to the Central Prison on 23.15 hours and remained in the central prison till 2.10 am on 26.08.2020. Thereafter, there was a oral information that there will be a half yearly inspection on 26.08.2010 at 9.00 am. But as per respondents, the time is 8.00 a.m., for which, the petitioner appears to have been came at 8.05 am with the delay of five minutes and hence, the disciplinary authority has inflicted punishment holding that the charges are proved and punishment of stoppage of increment for postponement of promotion for two years without cumulative effect.

9. Further, it is alleged that the petitioner has failed to make necessary arrangements for half yearly inspection on 26.08.2010 at 8.00 am though he was early informed on 25.08.2010 and the petitioner came belatedly at 8.05 am and accordingly, it was held that there is negligence of the Supervisory Officer and negligence and charges are held to be proved. The petitioner relied on the material records produced before the enquiry in and out Register in page Nos. 128 + 129 indicates the visit of Superior Officers on 25.08.2010 at 9.55 (21.55) pm and out by 2.00 and 2.10 early morning on 26.08.2010 and it is found that the factum of inspection of Superior Officer visiting jail upto 2 a.m. as claimed by the appellant. But, with regard to the time fixed for Half Yearly inspection on 26.08.2010, the appellant himself claims it as a oral instruction and there is nothing more, to prove the same by adducing evidence and based upon the same, both the Appellate Authority as well as the Review Authority has held that charges are proved and the same does not warrant any interference.



10. Hence, based upon the material that has been placed, I find that the charges stands proved. However, taking note of the proved fact and quantum of the punishment is modified into postponement of increment by six months without cumulative effect and accordingly, the Writ Petition is partly allowed to the extent indicated above. No costs.

Sd/-

Assistant Registrar (P&A)

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/ /2020

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

1. The Principal Secretary,
State of Tamil Nadu
Home (Prison - 1) 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.
3. The Deputy Inspector General of Prisons,
Madurai Range, Madurai - 16.

+1 CC to the SPL GP SR-21726.

+1 CC to Mr.T.LAJAPATHI ROY, Advocate SR-21959.

ORDER MADE IN
WP(MD).No.9706 of 2015
09.11.2020

CK(CO)

CS(24.11.2020) 4P 6C