



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **27.01.2020**

CORAM:

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

W.P. (MD)No.26026 of 2019

and

W.M.P. (MD)No.22525 of 2019

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M.Kubendran ... Petitioner

/vs./

1.The Director General of Police,
Mylapur, Chennai-4.

2.The Commissioner of Police,
Madurai City, Madurai.

3.The Deputy Commissioner of Police,
Madurai City (Crime), Madurai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records pertaining to the impugned order in Na.Ka.No.D.1(4)/Appeal 10/2019, dated 31.10.2019, on the file of the second respondent and quash the same as illegal.

For Petitioner : Mr.R.Venkatesan

For Respondents : Mr.C.M.Mari Chellai Prabhu
Additional Government Pleader

ORDER

On a set of charges, the petitioner was departmentally proceeded with and ultimately, the third respondent herein had passed an order, dated 15.04.2019, imposing the punishment of postponement of next increment for the period of two years, which shall not operate to postpone his future increments. Aggrieved against the order of the third respondent, the petitioner herein had filed an appeal before the second respondent on 10.05.2019. Since the appeal had taken some considerable time to be disposed of, the petitioner had filed Mercy Petition before the first respondent herein on 27.09.2019, which is said to be still pending. In this background, the second respondent herein had passed the impugned order, dated 31.10.2019, affirming the punishment imposed by the third respondent, which is to be under challenge in the present writ petition.

2.When the Mercy Petition is already pending before the first respondent herein, it would not be appropriate for this Court to parallelly consider the claim of the petitioner, both before this Court as well as the first respondent herein. As such, it would not be appropriate to invoke the extraordinary powers of this Court under Article 226 of the Constitution of India.

Nevertheless, if the petitioner is granted with liberty to file a



fresh Mercy Petition before the first respondent herein, pursuant to the orders passed by the second respondent, dated 31.10.2019 with a consequential direction to the first respondent to consider the same within a stipulated time, the ends of justice would be secure.

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3.In the light of the above observations, the petitioner is at liberty to file a fresh Mercy Petition before the first respondent herein, ventilating his grievances, as expeditiously as possible. On receipt of such petition, if any, the first respondent shall consider the same on its own merits and pass appropriate orders in accordance with law, preferably, within a period of three months therefrom. It is made clear that this Court has not expressed any of its view, with regard to the merits of the grounds raised by the petitioner in the present writ petition.

4.The writ petition stands disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

To

1.The Director General of Police,
Mylapur, Chennai-4.

2.The Commissioner of Police,
Madurai City, Madurai.

3.The Deputy Commissioner of Police,
Madurai City (Crime), Madurai.

+1 CC to SPL.GP (SR-3724[F] dated 29/01/2020)

+1 CC to MR.R.VENKATESAN, Advocate (SR-3469[F] dated 28/01/2020)

Order made in
W.P. (MD) No.26026 of 2019
27.01.2020

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