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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.08.2021

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THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P.No.11479 of 2009

Mr.Mayandi

...Petitioner

Vs

1. The Director General of Police,
Office of the DGP, Chennai - 600 004.
2. The Additional Commissioner of Police,
Egmore, Chennai - 600 008.
3. The Deputy Commissioner of Police,
Armed Reserve, Egmore, Chennai - 600 008.
4. The Asst. Commissioner of Police,
Traffic Enforcement, St. Thomas Mount,
Chennai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorari to call for the records of the 1st respondent in Rc.No.01507/AP.3(3)/2009 dated 03.04.2009 confirming the orders of the respondents 2 and 3 viz RC.PR.No.19/PR III (1)/2007, dated 31.03.2008 and P.R.No.19/3(1)/2007, dated 27.12.2007 respectively and quash the same as illegal.

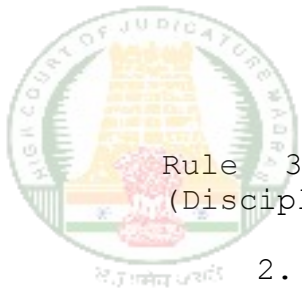
For Petitioner : Mr.Jaikumar Ranganathan

For Respondents : Mr.C.Selvaraj

Government Advocate

O R D E R

The petitioner claims to have been in service with the Police Department for 28 years. While in service as Sub-Inspector of Police, Traffic, attached to J-9 Turaipakkam Police Station, an incident occurred in the year 2006, consequent upon which disciplinary action was initiated against him in terms of



Rule 3(b) of the Tamil Nadu Police Subordinate Service (Disciplinary and Appeal) Rules, 1955 (in short 'Rules').

2. The allegations were that on 14.04.2006 he had waylaid a two wheeler and demanded a bribe for not registering a case of over speeding, delaying the two wheeler rider for 45 minutes in the process. Further, an allegation made was made also of a bribe received from lorry drivers during the months of February to April, 2006.

3. Based on the examination of witnesses and statements recorded from them, a charge memo was issued which culminated in an order dated 27.12.2007 imposing punishment of reduction in time scale of pay by one stage for one year, the period of reduction not to operate to postpone future increments.

4. As against the aforesaid order, the petitioner filed an appeal before the Additional Commissioner of Police that came to be dismissed by order dated 31.03.2008. The petitioner has not challenged order dated 31.03.2008. Instead he filed a petition on 05.01.2009 before the Director General of Police, Tamil Nadu, (DGP) who is arrayed as R1, seeking redressal against the aforesaid order. The aforesaid appeal order has thus become final, and with this the charges stand proved. R1 has treated petition dated 05.01.2009 as a mercy petition.

5. The Rules do not provide for the escalation of an appellate order to the DGP for redress. Thus, such a petition be only be treated as an extra- statutory remedy resorted to by the petitioner. R1 has, upon perusal of the petition and connected records, noted that the charges were amply proved. Taking note of the nature of the delinquency, he has concurred with the conclusion in the appellate order that the punishment awarded was not excessive. Furthermore, he states that the petitioner has merely reiterated the contentions raised before the original and appellate authorities and no new contention was brought out warranting any consideration of the mercy petition. On the basis of the discussion as aforesaid, the petitioner's petition has come to be rejected.

6. The grant of mercy or otherwise is a question of discretion and not one that I am inclined to interfere with. If at all the petitioner was of the view that the appellate order was erroneous in law or perverse in its appreciation of facts, then that order ought to have been challenged. Having resorted to the remedy of seeking mercy before the superior authority and such request for mercy having been considered in proper light, I am not inclined to interfere with the same.



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7. The impugned order stands confirmed and this Writ Petition, dismissed. No costs.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Director General of Police,
Office of the DGP, Chennai - 600 004.
2. The Additional Commissioner of Police,
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3. The Deputy Commissioner of Police,
Armed Reserve, Egmore, Chennai - 600 008.
4. The Asst. Commissioner of Police,
Traffic Enforcement, St. Thomas Mount,
Chennai.

+1cc to Mr.K.Balaji, Advocate, S.R.No.42576

+1cc to the Government Pleader, S.R.No.42669

W.P.No.11479 of 2009

PMK (CO)

CT(21/09/2021)