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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.09.2021

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P. No.33950 of 2006
and
M.P. No.1 of 2006

D.Rajkumar

...Petitioner

Vs.

State of Tamil Nadu,
Rep. by its Secretary to Government,
Home (Police) Department,
Fort St. George, Chennai - 600 009.

...Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue Writ of Certiorari to call for the records of the respondent passed in G.O.(2D) No.464 Home (Pol.IV) Department, dated 01.08.2006 confirming the order passed in G.O.(2D) No.336 Home (Police II) Department, dated 24.08.2005 and quash the same.

For Petitioners : Mr.Naveen Kumar Murthy for
Mr.S.T.S.Murthi

For Respondents : Mr.John J.Raja Singh,
Government Advocate

O R D E R

The petitioner has filed this writ petition challenging an order passed by the State represented by Secretary to Government, Home (Pol.IV) Department, dated 01.08.2006 confirming the order passed in G.O.(2D) No.336 Home (Police II) Department, dated 24.08.2005.

2. The admitted position is that the petitioner was working as Sub Inspector of Police at Thindivanam Police Station. He was suspended on 07.12.2001 and charges were framed against him under Rule 3 (b) of the Tamil Nadu Police Subordinate Service



(Discipline and Appeal) Rules (in short 'Rules'). The charge memo dated 11.07.2002 was issued laying out three charges being (i) Highly Reprehensible Conduct in having fabricated false case against Lakshmanan, Mohan, Sadiq, Anandan U/s.41(1) CrI.P.C. and Sec.4 (1) (a) TNP Act in Tindivanam Police Cr.Nos.1107 to 1110 of 2001 and 1111 to 1114 of 2001 respectively on 29.10.2001 (ii) In having illegally dealt with the personal property of the alleged accused in the above cases on 29.10.2001 and (iii) In having failed to examine Rita carefully in Tindivanam Police Station Cr. No.1115 of 2001 U/s.8(b) of P.I.T Act on 29.10.2001.

3. The petitioner tendered an explanation on 01.08.2002 refuting the aforesaid charges. I desist from going into the merits and restrict the scope of the matter before me to whether proper procedure has been followed by the authorities in conduct of the disciplinary proceedings. To complete the narration, the explanation filed by the petitioner was considered and an order came to be passed on 24.08.2005 by the Principle Secretary to Government rejecting the explanations tendered on all three grounds. Punishment of 'postponement of Increment for three years with cumulative effect' was imposed.

4. As against the rejection order, the petitioner filed an appeal before the respondent on 05.11.2005. A perusal of the appeal indicates that detailed grounds have been raised, rebutting all the allegations made in the order passed by the original authority and setting forth petitioner's explanations for the sequence of events that had transpired, according to him.

5. The appeal has come to be rejected by way of the impugned order dated 01.08.2006 passed by the respondent which is, to say the least, cryptic. The appellate order comprises four paragraphs, paragraph 1 setting out the charges, paragraph 2 setting out the sequence of events, paragraph 3 referring to the appeal petition and paragraph 4 which is the operative portion of the order, rejecting the appeal on the basis that there was no valid ground for interference. The appellate order, in entirety, is extracted below:

Abstract

Public Services - Police Department - Villupuram
District - Thiru D.Rajkumar, Sub-Inspector of Police



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petition against punishment imposed in PR.18/2002-
Rejected - Orders issued.
Home (Pol.IV) Department
G.O.(2D) No.464

Dated: 01.08.2006
Read

From Thiru.D.Rajkumar, Sub-Inspector of Police
petition dated 15.11.2005.

ORDER:

Thiru.D.Rajkumar, Sub Inspector of Police, formerly Villupuram District, now in Cuddalore District was dealt with disciplinary action under/rule 3(b) of Tamil Nadu Police Subordinate Services (Discipline & Appeal) rules, 1955 in PR 18/2002 for the following delinquencies:-

(i) 'Highly Reprehensible Conduct in having fabricated false case against Lakshmanan, Mohan, Sadiq, Anandan U/s.41(1) CrI.P.C. and Sec.4 (1) (a) TNP Act in Tindivanam Police Station Cr.Nos.1107 to 1110 of 2001 and 1111 to 1114 of 2001 respectively on 29.10.2001'

(ii) 'Highly reprehensible conduct in having illegally dealt with the personal property of the alleged accused in the above cases on 29.10.2001'

(iii) 'Highly reprehensible conduct in having failed to examine Reeta carefully in Tindivanam Police Station Cr. No.1115 of 2001 U/s.8(b) of P.I.T Act on 29.10.2001'

2) The Superintendent of Police, Villupram held the charges as proved in his minute dated 28.05.1998. The findings of the inquiry officer was accepted by the Government and awarded the punishment of "Postponement of Increment for three years with cumulative effect" in G.O.(2D) No.336, Home (Pol.2) Department dated 24.08.2005.

3) Thiru.D.Rajkumar, Sub Inspector of Police has submitted the petitioner to Government with a request to set aside the punishment stoppage of increment for three years with cumulative effect, impose on him in PR. No.18/2002.

4) The Government have examined the petition of Thiru.D.Rajkumar, Sub-Inspector of Police carefully and independently along with the relevant records. He has not adduced any valid reasons for consideration of the Government. The Government have therefore decided to



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reject the petition of Thiru.D.Rajkumar, Sub-Inspector of Police as devoid of merits. Accordingly the Government order that the petition of Thiru.D.Rajkumar, Sub Inspector of Police as devoid of merits. Accordingly the Government order that the petition of Thiru.D.Rajkumar, Sub-Inspector of Police, Villupuram District against the punishment of stoppage of increment for three years with cumulative effect imposed on his in PR. No.18/2002 be rejected as devoid of merits.

(BY ORDER OF THE GOVERNOR)

PRINCIPAL SECRETARY TO GOVERNMENT'

6. It is my considered view that the appellate authority has not taken note of the appeal grounds in proper perspective or even, at all, seeing as there is no reasoning set out for why he chooses to reject the appeal filed by the petitioner. The proceedings initiated as against the petitioner, no doubt, level very serious charges. However, and unfortunately, the rejection of the appeal has been made in a rather cursory manner.

7. The Supreme Court in the case of Roop Singh Negi Vs. Punjab National Bank and others ((2009) 2 SCC 570) had occasion to consider the validity of Departmental Enquiry that had been initiated as against the appellant in that case. In conclusion, the Bench notes that the proceedings initiated are quasi judicial in nature and refer to a slew of cases including Moni Shankar V. Union of India ((2008) 3 SCC 484) to the effect that principles of natural justice are required to be adhered to scrupulously, reiterating the settled proposition that an order passed by the original/disciplinary authority as well as that of an appellate authority, have to be supported by reasons, and speak for itself. At paragraph 23, the Bench states as follows:

' 23.Furthermore, the order of the disciplinary authority as aslo the appellate authority are not not supported by any reason. As the orders passed by them have severe civil consequences, appropriate reasons should have been assigned. If the enquiry officer had relied upon the confession made by the appellant, there was no reason as to why the order of discharge passed by the criminal court on the baisis of selfsame evidence should not have been taken into consideration. The materials brought on record pointing out the guilt



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are required to be proved. A decision must be arrived at on some evidence, which is legally admissible. The provisions of the Evidence Act may not be applicable in a departmental proceeding but the principles of natural justice are. As the report of the enquiry officer was based on merely ipse dixit as also surmises and conjectures, the same could not have been sustained. The inferences drawn by the enquiry officer apparently were not supported by any evidence. Suspicion, as is well known, however high may be, can under no circumstances be held to be a substitute for legal proof.'

8. Though the counter in this case refers to the impugned order as a 'speaking order', I am to the best of my ability, unable to find any reasons set out therein.

9. In light of the discussion as above, impugned order dated 01.08.2006 passed by the appellate authority confirming the order of the original authority dated 24.08.2005 is set aside. This writ petition is allowed. No costs. Connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

rkp

To:

State of Tamil Nadu,
Rep. by its Secretary to Government,
Home (Police) Department,
Fort St. George, Chennai - 600 009.

+1cc to M/s.R.Santhanam, Advocate, S.R.No.44970

+1cc to the Government Pleader, S.R.No.45235

W.P. No.33950 of 2006
and M.P. No.1 of 2006

MG(CO)
SB(29/09/2021)