



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.10.2021

CORAM

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P.No.24287 of 2009
and
MP.No.2 of 2009

V.Parimala

...Petitioner

Vs

1. The Deputy Commissioner of Police,
Motor Transport, I/c. AR,
City Police Officer,
Egmore, Chennai-600 008.

2. The Commissioner of Police,
Greater Chennai, Egmore,
Chennai-600 008.

3. The Director General of Police,
Tamil Nadu,
Chennai - 600 004.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue Writ of Certiorari, calling for the records pertaining to the order of the third respondent passed in his proceedings Rc.No.068175/AP.3(3)/07 dated 21.6.2008 confirming the order of the second respondent passed in his proceedings C.No.PRIV(1)/81/99402/05 dated 8.11.2006 enhancing the punishment imposed by the first respondent in his proceedings F.Order dated 2.5.06 in his P.R.No.394/4(1)/2005 and quash the said orders dated 21.6.2008, 8.11.2006 and 2.5.2006.

For Petitioner : Mr.Pravin Kumar

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

O R D E R

The petitioner had joined the services of the Police Force in the year 1997 and after serving in the Tamil Nadu Special Police and Armed Reserve Police, was posted as Grade-II Police in the All Women Police Station. She lost her husband in the



year 1995 and was thereafter also saddled with the sole responsibility of children and the elders of the family.

2. Admittedly, she had sought financial support from various persons including from one Mr. A.S. Arunkumar (lender) from whom she had allegedly borrowed a sum of Rs.15,000/-. There was some discussion initially on whether the quantum of the loan was an amount of Rs.15,000/- or Rs.50,000/- and this issue has been resolved in the succeeding paragraphs of this order. Three post-dated cheques were issued, of Rs.5,000/- each, which had been dishonoured by the bank on account of 'insufficiency of funds'.

3. A lawyer's notice had thus come to be issued by the lender on 18.06.2004, wherein he refers to the borrowal of a sum of 'Rs.15,000/-', the reason adduced being to enable the petitioner to meet urgent requirements. Thereafter, a complaint appears to have been sent by the lender to the Chief Minister's Cell stating that the petitioner had received a loan from him of a sum of Rs.50,000/- upon the false assurance of obtaining a job for his sister's son in the police force. The representation was forwarded to the police department for necessary action.

4. The first respondent, acting upon the complaint, appointed the Assistant Commissioner of Police to conduct the enquiry. In the course of enquiry, a statement was recorded on 31.10.2005 from the lender confirming that the loan borrowed from him, was of a sum of Rs.15,000/- and that the amount had been repaid by the petitioner in the course of enquiry.

5. Thus, the dispute as to whether the loan amount was of a sum of Rs.15,000/- or Rs.50,000/- stands resolved with his confirmation as aforesaid. As regards the purpose for which the loan was given, though the complaint states as it was a bribe, neither the legal notice nor the receipt reiterate this and, in fact, the legal notice makes a variation, stating that the loan was taken by the petitioner to meet certain emergent requirements.

6. On the basis of the facts as culled at the time of enquiry, an order of imposition of punishment came to be passed by R1 on 02.05.2006 imposing punishment of reduction in time scale of pay by one stage for one year without cumulative effect for the delinquency of having availed financial accommodation, being unable to repay the same in time and issuing cheques that had been dishonoured for insufficient funds. The aforesaid order of punishment was accepted by the petitioner.

7. While this is so, suo motu revision in terms of Rule 15 (A) of the Tamil Nadu Police Subordinate Service (Discipline and Appeal) Rules, 1955 (Rules) came to be initiated by



R2/Commissioner of Police. Notice was issued on 30.06.2006, wherein R2 expresses the view that punishment imposed was not commensurate with the charge levelled. Being of the view that the punishment was lenient, R2 calls upon the petitioner to show cause as to why the petitioner not be subjected to enhanced punishment.

8.The petitioner files a detailed reply which comes to be rejected on 08.11.2006 by R2, who has enhanced the punishment to a two-stage reduction for two years to affect future increments as well. The operative portion of R2 order as set out in paragraph-5 is extracted below:

'5.Arunkumar in enquiry has accepted that only Rs.15,000/- was due from WPC not 50,000/- whatever be reasons for taking the said loans, it was incorrect on the part of the WPC to take the loans and get into a situation where the cheques issued, bounced. The charge bell provided is serious in the nature and warrants stringent action. Considering the situation of the WPC a widow looking after her children, her mother, sibling and mother-in-law the delinquency is viewed with some leniency. I enhance the punishment to a 2 stage reduction for 2 years to affect future increments.'

9. Mr.S.John J.Raja Singh, learned Government Pleader circulates the following decisions in support of his submission that the powers of suo motu revision under Rule 15(A) are wide and extend to 'any order made under this Rules'. They are:

(1) K.Selvaraj vs. Secretary to Government, Home (Police V) Department, Fort St. George, Chennai-9 and another (WP.No.49448 of 2006, dated 24.07.2009);

(2) R.Chittilingam vs. The Deputy Inspector General of Police, Vellore Range, Vellore and another (WP.No.23046 of 2005, dated 08.07.2009);

(3) G.Anbazhagan and another vs. The Director General of Police, Mylapore, Madras-4 and others (WP (MD)Nos.765 & 5837 of 2005, dated 03.09.2010);

(4) The Director General of Police, Dr.Radhakrishnan Salai, Mylapore, Chennai-600 004 vs.



E.Jayakumar (WA(MD)No.1008 of 2016, dated 30.11.2016);

(5) The Director General of Police, Dr.Radhakrishna Salai, Chennai-600 004 and others vs. C.Vijaya Baskar (WA(MD)No.686 of 2015, dated 14.02.2020).

10. There is no dispute as regards this proposition. However, power of suo motu review by an authority must be to a greater end than a mere substitution of one punishment for another and the original punishment must be established to be patently erroneous and inadequate. In my view, Rule 15A is not liable to be invoked to merely substitute one officer's discretion with that of another.

11. Rule 15A does not contemplate review in such circumstances and is surely intended to correct grave errors in imposition of punishment, particularly as, in this case, the revisional authority concedes to the position that the facts and circumstances call for some leniency to be accorded.

12. In the light of the discussion as aforesaid and bearing in mind that the petitioner has accepted the punishment imposed originally, the impugned show cause notice dated 21.06.2008 read with orders dated 08.11.2006 and 02.05.2006 are set aside and this writ petition is allowed. No costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

vs

To

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City Police Officer,
Egmore, Chennai-600 008.
2. The Commissioner of Police,
Greater Chennai, Egmore,
Chennai-600 008.



3. The Director General of Police,
Tamil Nadu,
Chennai - 600 004.

+1cc to Mr.P.Anbarasan, Advocate, S.R.No.51478

+1cc to the Government Pleader, S.R.No.51538

W.P.No.24287 of 2009 and
MP.No.2 of 2009

PMK (CO)
RGA (15/11/2021)