



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.12.2021

CORAM

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

W.P.NO. 24835 OF 2009

AND

M.P.NOS. 1 & 2 OF 2009

N.Pasupathy

..Petitioner

Vs

1. The Additional Director General of Police,
(Law & Order) Appellate Authority,
Chennai - 600004.

2. The Deputy Inspector General of Police,
(Disciplinary Authority)
Villupuram Range,
Villupuram.

..Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India for writ of certiorarified mandamus, to call for the records relating to the impugned order made in Rc.No.041097/AP 1 (2)/2007 dated 23.10.2009 communicated on 12.11.2009 passed by the 1st respondent and quash the same as null and void and consequentially direct the respondents to give promotion and all monetary benefits to the petitioner within reasonable time.

For Petitioner : Mr.C.Manohar

For Respondents : Mr.T.Arun Kumar, AGP

ORDER

The relief sought for in the writ petition is to call for the records relating to the impugned order made in Rc.No.041097/AP 1(2)/2007 dated 23.10.2009 communicated on 12.11.2009 passed by the 1st respondent and quash the same as null and void and consequentially direct the respondents to give promotion and all monetary benefits to the petitioner within reasonable time.



2. The writ petitioner while working as Inspector of Police in Arakandanallur Police Station, the 1st respondent framed charges against the petitioner and one Head Constable, relating to the subject matter in Crime No. 87 of 2005 in C.C.No. 155 of 2005. Pursuant to the said charges, the 1st respondent initiated proceedings under Section 3(b) of the Tamil Nadu Police Subordinate Service (Discipline and Appeal) Rules in P.R.No. 20 /2005 and 21/2005 respectively and held the charges are proved against the petitioner as well as the said Head Constable. Subsequently, based on the report of the disciplinary authority, punishment of reverting him from the post of Inspector to the lower rank as Sub Inspector for a period of three years was imposed without any personal hearing. Whereas charges levelled against the Head Constable in PR.No. 21 of 2005 were dropped. Challenging the aforesaid order of punishment, the writ petitioner had preferred an appeal before the 1st respondent and the 1st respondent rejected the petitioner's requested and modified the punishment as reduction in pay by one stage for one year with cumulative effect. Challenging the same, the present writ petition is filed.

3. The learned counsel for the petitioner has submitted that based on the report of the enquiry officer, the Disciplinary Authority/2nd respondent passed an order without giving opportunity by way of show cause notice, therefore, the respondent had violated the principles of natural justice. It is further submitted by the learned counsel for the petitioner that the respondent has not provided any personal hearing before imposing the major punishment of reversion to the lower post. Therefore, the impugned order is liable to be set aside.

4. The learned Additional Government Pleader, in support of the Counter affidavit filed by the respondent, has strongly contended that the delinquent/petitioner has chosen himself for oral enquiry and the same was conducted properly by the respondent after providing sufficient opportunities to him as per rules. Therefore, the punishment awarded by the respondents is proper and the writ petition is liable to be dismissed.

5. Heard both sides and perused the documents available on record.

6. On perusal of the entire counter affidavit, it is seen that there is no reply in the counter affidavit with regard to the non service of show cause notice to the petitioner by the Disciplinary authority/2nd respondent. The learned counsel for the petitioner has also contended that the petitioner has raised the same ground before the appellate authority, but the appellate authority has also not mentioned any reason in its



order and imposed major punishment. According to the petitioner, the said action on the part of the disciplinary authority and the appellate authority is purely a violation of principles of natural justice. This Court finds some force on the contentions raised by the learned counsel for the petitioner.

7. In view of the aforesaid reasons, it is clear that the respondents have not granted sufficient opportunities to the petitioner to defend his case prior to passing the impugned order. On this sole ground the impugned orders requires interference and liable to be quashed. Therefore, it would be appropriate for this court to direct the disciplinary authority to consider the matter afresh and pass orders in accordance with law.

8. Accordingly, the impugned order is quashed. The writ petition is allowed with the following directions;

- i. Impugned order passed by the respondent is quashed.
- ii. The 2nd respondent is directed to serve show cause notice to the writ petitioner and after affording opportunity to submit his explanation, shall pass orders on merits, in accordance with law as expeditiously as possible, preferably within a period of twelve weeks from the date of receipt of a copy of this order.
- iii. The petitioner is also directed to co-operate with the 2nd respondent for enquiry.
- iv. No costs. Connected Miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1. The Additional Director General of Police,
(Law & Order) Appellate Authority,
Chennai - 600004.
 2. The Deputy Inspector General of Police,
(Disciplinary Authority)
Villupuram Range, Villupuram.
- +1cc to the Government Pleader, S.R.No.63799

W.P.No. 24835 of 2009
and M.P.No. 1 & 2 of 2009

PVS (CO)

RLP (03/01/2022)