



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date :10.02.2021

CORAM:

THE HON'BLE MR. JUSTICE R.SURESH KUMAR

W.P.No.38900 of 2004 and

W.P.M.P.No.46436 of 2004

H.Kariappa

...Petitioner

Vs.

1 Additional Director General
of Police(Law & Order),
Chennai - 4.

2 Deputy Inspector General of Police,
Chengalpattu Range,
Chennai 16.

...Respondents

Prayer: Petition filed under Article 226 of Constitution of India praying for issuance of a Writ of Certiorari calling for the records of the respondents pertaining to the impugned order of the 1st respondent passed in proceedings in R.C.No.163011/PR.I(2)/2004, dated 29.09.2004 confirming the impugned order of the 2nd respondent passed in proceedings Range Office Sl.No.20/PR/B2/2004, P.R.No.43/02 u/r 3(b) of Tiruvallur District dated 08.05.2004.

For Petitioner : Mr.Naveen Kumar Murthi

For Respondents : Mr.K.Magesh
Special Government Advocate

ORDER

The prayer sought for herein is to issue a writ of certiorari calling for the records of the respondents pertaining to the impugned order of the first respondent passed in proceedings in R.C.No.163011/PR.I(2)/2004, dated 29.09.2004 confirming the impugned order of the 2nd respondent passed in proceedings Range Office Sl.No.20/PR/B2/2004, P.R.No.43/02 u/r 3 (b) of Tiruvallur District dated 08.05.2004.

2.When the petitioner was working as Sub-Inspector of Police at Manavala Nagar Police Station on 08.10.1997, in view of the incident took place in the said Police Station, where, he was in-charge as Station House Officer/Sub-Inspector of Police,



a disciplinary proceedings was initiated against him in PR.No.43/02 under Rule 3(b) of the Tamil Nadu Police Subordinate Service (Discipline and Appeal) Rules, 1955.

3. In this context, there were four charges framed against the petitioner. As against the four charges, the petitioner had given his explanation. However, not satisfied with the same, an enquiry was conducted. At the end of the enquiry, the Enquiry Officer found that, all the four charges framed against the petitioner were proved and accordingly, he filed the enquiry report to the Disciplinary Authority.

4. The Disciplinary Authority i.e., the second respondent, having considered the Enquiry Officer's report, decided to accept the same and accordingly, he has come to the conclusion, to inflict the punishment on the petitioner, thus by order dated 08.05.2004, the second respondent/ Disciplinary Authority inflicted the punishment of pay reduction by two stages for two years without cumulative effect on the petitioner.

5. As against the said order of punishment, the petitioner filed appeal to the Appellate Authority i.e., the first respondent on 05.07.2004, where, he raised various grounds and also quoted various citations as to how the order of the Disciplinary Authority is unjustifiable and it was required to be interfered with by the Appellate Authority.

6. However, the first respondent/Appellate Authority, by order dated 29.09.2004, has rejected the said appeal by confirming the order of punishment given by the Disciplinary Authority. Therefore, aggrieved over the said orders of the Disciplinary Authority i.e., the second respondent as well as the Appellate Authority i.e., the first respondent, the petitioner filed this writ petition with the aforesaid prayer.

7. Heard Mr. Naveen Kumar Murthi, learned counsel appearing for the petitioner, who has canvassed many grounds, assailing both the Disciplinary Authority order as well as the Appellate Authority order and he has also specifically pointed out that, insofar as the appeal is concerned, though several grounds were raised in the appeal filed by the petitioner dated 05.07.2004, none of the grounds were considered by the Appellate Authority and in fact, by order dated 29.09.2004, the Appellate Authority i.e., the first respondent has passed the very cryptic orders in four lines. Therefore, the said order passed by the Appellate Authority at least is liable to be interfered with and the matter can be remanded back to the Appellate Authority for reconsideration.

8. I have heard Mr. K. Magesh, learned Special Government



Pleader appearing for the respondents, who would submit that, in respect of the four charges framed against the petitioner, all the charges were proved after conducting enquiry and this has been stated by the Enquiry Officer. Therefore, due process of conducting the disciplinary proceedings have been adopted in this case, where, after the Enquiry Officer's report, further opportunity also was given to the petitioner and thereafter, the Disciplinary Authority having concurred with the findings given by the Enquiry Officer has come to the conclusion that, the petitioner shall be punished for the proven charges.

9. Even though it is a Rule 3(b) charges of TNPSS Rules i.e., Tamil Nadu Police Subordinate Service (Discipline and Appeal) Rules, only a minor punishment of stoppage of pay for two stages for two years without cumulative effect alone was imposed. Therefore, the punishment given by the Disciplinary Authority by taking a lenient view cannot be found fault with. The learned Special Government Pleader would also submit that, when appeal was filed, the said aspects having been considered by the Appellate Authority, he has also come to the conclusion that, there is no new ground raised or any new material filed by the petitioner for consideration by the Appellate Authority and accordingly, he has come to the conclusion to reject the appeal by accepting the orders of the Disciplinary Authority, therefore, that order of the Appellate Authority also does not warrant any interference from this Court, he contended.

10. I have considered the rival submissions made by the learned counsel appearing for both sides and have perused the materials placed before this Court.

11. Insofar as the charges framed against the petitioner is concerned, in view of the decision going to be taken or orders to be passed in this writ petition, this Court do not want to comment or to make any observation as to whether those charges framed against the petitioner were proved or not and assuming that the charges were proved, whether the punishment imposed by the Disciplinary Authority against the petitioner to the proven charges is proportionate or not. However, whether the observation given by the Enquiry Officer that, "it was also unfortunate that neither the Inspector nor any Superior Officer had guided this raw Sub-Inspector (the petitioner) properly", have been taken into account in proper perspective by the Disciplinary Authority i.e., the second respondent before awarding the punishment to the petitioner, is to be looked into. All these aspects can be gone into by the Appellate Authority in proper perspective. However, if we look at the orders passed by the Appellate Authority dated 29.09.2004, he has stated the four charges framed against the petitioner and at para 2, he has stated that the Enquiry Officer conducted oral enquiry and held



the charges proved. In para 3, he has stated that, agreeing with the findings of the Enquiry Officer, the Deputy Inspector General of Police i.e., the Disciplinary Authority has imposed the punishment of reduction in pay by two stages for two years without cumulative effect. In para 4, he has stated that the petitioner has preferred appeal dated 05.07.2004 to cancel the punishment and that the appeal is within the time limit.

12.By stating the above upto para 4, in para 5, which has been wrongly typed as para 6, the first respondent/Appellate Authority has stated the following:

"6.The delinquency is a serious one and on perusal of minute, connected records; I find that the charge was rightly held as proved. The delinquent has not raised any new material for consideration. Hence, the appeal is rejected."

13.Therefore, the 4 1/2 lines findings and conclusions given by the Appellate Authority, as quoted above, definitely cannot be construed that, it is an order passed by the Appellate Authority against the punishment awarded by the Disciplinary Authority by giving reasons as to how and why he concur with the finding given by the Disciplinary Authority and confirming the same.

14.It is well settled proposition that, the Appellate Authority in disciplinary proceedings, while deciding the appeal or exercising the function only as a quasi judicial authority, therefore, while exercising such function, they must record the reason as to how and why they accept the reasoning and conclusion arrived at by the Disciplinary Authority and in this context, what are all the grounds urged by the appellant/delinquent has any plausible reason to interfere with the Disciplinary Authority's order, has to be taken into account and accordingly, after considering the same or discussing the same, the reasons and conclusion shall be given by the Appellate Authority before accepting or rejecting the appeal.

15.However, this procedure has not been adopted by the Appellate Authority as he has passed only a few lines order for reason as well as conclusion where the Appellate Authority has only stated that, the charges were rightly held as proved, the delinquent has not raised any new material for consideration, therefore, the appeal was rejected. This kind of cryptic orders, without having applied the mind of the Appellate Authority, who has exercised the quasi judicial power conferred under the statute, cannot be appreciated by this Court.

16.In view of the aforesaid reason alone, this Court,



instead of intervening with the orders of the Disciplinary Authority on merits, at this stage, is inclined to set aside the order passed by the Appellate Authority and to remand the matter back to the Appellate Authority for reconsideration and pass a reasoned order meeting all the grounds raised by the petitioner in appeal.

17. In that view of the matter, this Court is inclined to dispose of this writ petition with the following orders.

(i) The order passed by the first respondent/Appellate Authority in RC.No.163011/PR.I(2)/2004 dated 29.09.2004 is hereby set aside.

(ii) Consequently, the matter is remanded back to the first respondent/Appellate Authority for reconsideration. While reconsidering the appeal, the grounds urged by the petitioner in the appeal dated 05.07.2004 shall be considered in proper perspective, where, after giving due consideration for each of the grounds raised therein, a reasoned order can be passed considering the circumstances of the case and the needful as indicated above, shall be completed and orders shall be passed by the first respondent within a period of three months from the date of receipt of a copy of this order.

18. With this direction, this Writ Petition is ordered to the term indicated above. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/--
Assistant Registrar (CS-IV)

// True Copy//

Sub Assistant Registrar

Sgl

To

1 The Additional Director General
of Police (Law & Order), Chennai - 4.

2 The Deputy Inspector General of Police,
Chengalpattu Range, Chennai 16.

+2cc to Mr. Naveenkumar Murthy, Advocate, SR.No.7371

+1cc to Government Pleader, SR.No.7873

W.P.No.38900 of 2004

UM(CO)

RGA(14/07/2021)