



IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 01.10.2021

PRONOUNCED ON : 02.11.2021

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.Nos.4001 & 4003 of 2019

P.Karunakaran

.. Petitioner in both W.Ps.

vs.

1.The Director General of Police,
Dr.Radhakrishnan Salai,
Mylapore, Chennai-4.

2.The Commissioner of Police,
Greater Chennai Police,
Vepery, Chennai 7.

3.The Additional Commissioner of Police,
Headquarters, Greater Chennai of Police,
Vepery, Chennai 7.

.. Respondents
in W.P.No.4001 of 2019

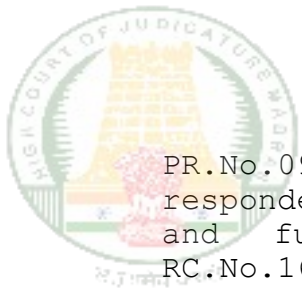
1.The Deputy Inspector General of Police,
Kancheepuram Range, Kancheepuram.

2.The Additional Director General of Police,
Dr.Radhakrishnan Salai,
Mylapore, Chennai-4.

.. Respondents
in W.P.No.4003 of 2019

PRAYER in W.P.No.4001 of 2019 : Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, calling for the records of the 3rd respondent in connection with the impugned order passed by him in Na.Ka.No.197/31794/P.B.5(1) dated 23.03.2016 and quash the same and direct the respondents to award 14.5 marks in addition to the 10 marks given for Annual Confidential Report for selection to the post of Sub-Inspector (AR) for the year 2002 and consequently direct the respondents to include the name of the petitioner in 'C' list of Sub-Inspector (AR) for the year 2002 notionally and grant him all consequential service and monetary benefits.

PRAYER in W.P.No.4003 of 2019 : Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorari to call for the records of the 1st respondent in connection with the impugned order passed by him in



PR.No.09/PR/Tr1/2013 dated 24.8.2015, confirmed by the 2nd respondent in his RC No.165435/AP.3(2)/2015 dated 16.02.2016 and further modified by the 2nd respondent in his RC.No.165435/AP.3(2)/2015 dated 24.11.2016 and quash the same.

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For Petitioner : Mr.K.Venkataramani, SC for
Mr.M.Muthappan

For Respondents: Mr.L.S.M.Hasan Fizal,
Government Advocate (in both W.Ps.)

C O M M O N O R D E R

By this common order, both the writ petitions are being disposed.

2. In W.P.No.4001 of 2019, the petitioner has challenged the order dated 23.03.2016, bearing Reference No.197/31794/P.B.5(1) passed by the 3rd respondent therein namely, Additional Commissioner of Police and to quash the same. The consequential prayer is to direct the respondents to award 14.5 marks in addition to 10 marks given for Annual Confidential Report for selection to the post of Sub-Inspector (AR) for the year 2002 to include the name of the petitioner in 'C' list of Sub-Inspector (AR) for the year 2002 and together with consequential service and monetary benefits.

3. In W.P.No.4003 of 2019, the petitioner has challenged the punishment order bearing Reference No.09/PR (Tr1)/2013 dated 24.08.2015 of the 1st respondent, Deputy Inspector General of Police as modified by the 2nd respondent, namely Additional Director General of Police (L & O) vide order, dated 16.02.2016, bearing Reference RC.No.165435/AP.392)/2015 and further modified by the 2nd respondent by an order dated 24.11.2016 bearing Reference No.165435/AP3(2)/2015 and quash the same.

4. These present writ petitions have been filed primarily with a view to quash the above mentioned punishment orders imposed on the petitioner in the wake order dated 25.01.2017 of the Additional Commissioner of Police, 3rd respondent in W.P.No.2001 of 2019 stating the deferred punishment of "Censure for six months" has been ordered to be cancelled.

5. I have heard the learned counsel for the petitioner and the learned Government Advocate for the respondents and I have also perused the impugned orders.



6. The facts of the case is that the petitioner was promoted as Sub-Inspector of Police, based on the selection conducted by the Range Promotion Board during 2004 on 27.03.2005. After the petitioner was promoted as Sub Inspector of Police (Armed Reserve), the petitioner was issued with a Charge Memo dated 03.02.2013 in P.R.No.09/PR (Tr)/2013.

7. In the disciplinary proceedings, the petitioner was originally imposed with a punishment of postponement of increment for a period of two years with cumulative effect by the Deputy Inspector General of Police.

8. The Petitioner thereafter preferred an appeal before the 2nd respondent namely, Additional Director General of Police who by an order dated 16.02.2016 reduced the aforesaid punishment of postponement of increment for a period of two years to punishment of " Deferred censure for one year".

9. Aggrieved by the said order, the petitioner preferred revision before the 2nd respondent, Additional Director General of Police who by an order dated 24.11.2016, bearing Reference No.165435/AP.3(2)/2015 reduced the punishment to " Deferred censure for six months".

10. On completion of the deferred punishment of six months, the Additional Commissioner of Police (3rd respondent in W.P.No.2001 of 2019) passed an order dated 25.01.2017, whereby the punishment imposed by the Additional Director General of Police, 2nd respondent vide order dated 24.11.2016 in W.P.No.4003 of 2019 was cancelled after the period of punishment got over.

11. It is the case of the petitioner that in view of the cancellation of the punishment order by the Additional Commissioner of Police vide order dated 25.01.2017, the petitioner is entitled to 10 marks and therefore W.P.No.4001 of 2019 has been filed.

12. Admitted facts of the case are that the petitioner tampered with his Annual Confidential Report (ACR), while serving as a Head Constable in connivance with a colleague which later came to the light of the authorities. This was done by the petitioner from 1999 upto 2003 which later came to



the light of the authorities and therefore the petitioner was subjected to a disciplinary proceedings vide Charge Memo dated 03.02.2013 in P.R.No.09/PR(Tr)/2013.

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13. Earlier, the petitioner participated in the Range Promotion during 2002, he did not qualify in the said Range Promotion Board, despite the fabricated Annual Confidential Reports(ACR's). In the next Range Promotion Board, the petitioner got selected for promotion on the strength of the fabricated Annual Confidential Report(ACR).

14. The petitioner was departmentally proceeded and was punished. Though initially the petitioner was imposed with a punishment of stoppage of increments for a period of two years, it was later modified with the "deferred censure for one year" and subsequently to six months period. The fact remains that the promotion of the petitioner in the year 2005 was based on the fabricated documents. The question of applying Police Standing Order 97, regarding deferred punishment is of no consequence. The deferred punishment will no doubt erase the punishment, however, that would not entitle the person to be promoted based on the fabricated documents. Such deferred punishment merely keeps the punishment in abeyance in case of minor mis-conduct. If the punishment imposed on the petitioner has been implemented and accepted by the petitioner and is acted upon and subsequently, cancelled in terms of P.S.O.No.97, it would not entitle a delinquent to claim promotion. P.S.O.No.97, which reads as under:

P.S.O. No.97 : Deferred Punishment:-

"(1) For minor offences and in case of more serious misconduct when a man has a previous good record, the punishment may be held in abeyance for a stated period ranging from three to six months at the end of which order of punishment will be cancelled, if the officers conduct while on duty during the period of postponement has been good. If the offenders conduct is found to be unsatisfactory at any time during the period of postponement, the punishment may at once be confirmed. A deferred punishment will be entered in the defaulter sheet it confirmed but not other wise".

15. If the petitioner had not tampered with the Annual Confidential Report (ACR), the petitioner would not have been promoted as a Sub-Inspector of Police (AR) in the Range Promotion Board conducted in the year 2004 vide order dated 27.03.2015.



16. The petitioner having suffered punishment order and after having undergone the punishment and after the cancellation of the punishment order dated 25.01.2017 by the Additional Commissioner of Police, therefore he cannot file a writ petition (W.P.No.4003 of 2019) to quash the punishment orders passed by the respondents.

17. Therefore, there is no question of adding further marks over and above the marks already awarded. What is further discernible is that when the petitioner was promoted on 27.03.2005, the said promotion was based on the tampered and fabricated the Annual Confidential Report (ACR). As it is, the petitioner has got the advantage of getting promotion in the year 2005 based on tampered and fabricated Annual Confidential Report. Therefore, question of giving retrospective promotion to the petitioner from 2002 based on the tampered Annual Confidential Report between 1999 to 2003 cannot be countenanced. There cannot be any lineancy showed to the petitioner inasmuch as the petitioner has indulged in tampering and fabricating the entries in Annual Confidential Report (ACR). The petitioner should have been infact reduced in rank for having got promoted using unfair means. Instead a minor punishment of postponement of increment of two years was awarded to the petitioner which was surprisingly later modified by the second respondent to one year deferred censure and still further modified to six months deferred censure. The Appellate Authority has been rather too lenient on the petitioner.

18. It is therefore not open for the petitioner to challenge the punishment order after having under gone the modified punishment merely because these punishment orders has put a clog in his career progression or on account of order dated 24.11.2016 , 2nd respondent in W.P.No.4003 of 2019.

19. Therefore, the question of adding additional 14.5 marks in addition to the 10 marks given in the Annual Confidential Report for the selection to the post of Sub-Inspector (AR) for the year 2002 and consequently direct the respondents to include the name of the petitioner as Sub-Inspector of Police (AR) by the 2nd respondent and consequential service and monetary benefits cannot be countenanced as the petitioner's original promotion itself is based on tampered and fabricated Annual Confidential Report (ACR).



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20. There is no merits in the present writ petitions. Accordingly, these writ petitions are dismissed. No costs.

Sd/-

Assistant Registrar(CO)

//True copy//

Sub Assistant Registrar

kkd

To

- 1.The Director General of Police,
Dr.Radhakrishnan Salai,
Mylapore, Chennai-4.
- 2.The Commissioner of Police,
Greater Chennai Police,
Vepery, Chennai 7.
- 3.The Additional Commissioner of Police,
Headquarters, Greater Chennai of Police,
Vepery, Chennai 7.
- 4.The Deputy Inspector General of Police,
Kancheepuram Range, Kancheepuram.
- 5.The Additional Director General of Police,
Dr.Radhakrishnan Salai,
Mylapore, Chennai-4.

+1cc to Mr.M.Muthappan, Advocate SR.No.57018

+1cc to Government Pleader SR.No.57700

+1cc to Mr.M.Muthappan, Advocate SR.No.57019(29/12/2021)

W.P.Nos.4001 & 4003 of 2019

SM(CO)

GMV(01/12/2021)