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IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 12.07.2021

CORAM:

THE HONOURABLE MR. JUSTICE M.S.RAMESH

W.P.Nos.17594 & 17595 of 2016

S.Sundari	...	Petitioner in W.P.No.17594 of 2016
B.Gopi	...	Petitioner in W.P.No.17595 of 2016

Vs

- 1.The Director General of Police,
Dr.Radhakrishnan Salai,
Mylapore,
Chennai 600 004.
 - 2.The Deputy Inspector General of Police,
Vellore Range,
Vellore District.
 - 3.The Superintendent of Police,
Vellore District.
 - 4.The Assistant Commissioner of Police,
Home Guard North,
Chindadripet, Chennai.
- ... Respondents in
both cases

COMMON PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records relating to the proceedings of first respondent dated 11.04.2015 in RC NO.7845/AP.3(2)/2013 & 7846/AP.3(2)/2013 respectively, quash the same and direct the respondents to grant consequential promotion with all monetary benefits at par with their batch-mates.

(In both cases)

For Petitioners	:	Mr.D.Vijayababu for Petitioner
For Respondents	:	Mr.K.V.Sajeev Kumar, Government Counsel



COMMON ORDER

By consent of both the parties, these writ petitions are taken up for final disposal.

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2. Both the petitioners herein are members of the Tamil Nadu Police Department. While the petitioner, namely Gopi, in W.P.No.17595 of 2016 was appointed in the year 1999, the petitioner, namely S.Sundari, in W.P.No.17594 of 2016 was appointed in the year 2003. Both these petitioners were married to different spouses at different points of time. The petitioner in W.P.No.17595 of 2016 was married to one Sudha and the petitioner in W.P.No.17594 of 2016 was married to one Gunasekaran. Both these petitioners were leveled with identical charges on 18.11.2009 to the effect that, these petitioners, during the subsistence of their respective marriages, were in illicit relationship and residing together, which is unbecoming of a member of the Police Force. Pursuant to the charges, an enquiry was conducted, whereby the charges were held to be proved and consequently, punishment of postponement of increment for a period of three years with cumulative effect was imposed on 13.03.2012 by the third respondent herein. The appeal against the order of punishment before the second respondent was dismissed on 08.05.2012 and the mercy petition before the first respondent herein was rejected on 11.04.2015. Challenging the same, both these writ petitions were filed by the petitioners.

3. The learned counsel for the petitioner submitted that the petitioners were living together and owing to the family circumstances, they were married to different spouses. However, order of divorce was granted to both of them on 14.12.2009 and 17.05.2010 respectively. In the meanwhile, the criminal case filed against these petitioners herein under the Domestic Violence Act also came to be quashed by this Court on 23.12.2009. The learned counsel drew attention of this Court through various facts pertaining to the case about the affair between these petitioners and submitted that these petitioners also intended to live together and owing to the family circumstances, they were married to different spouses and therefore, sought for some leniency.

4. The learned Government Counsel appearing for the respondents, on the other hand, submitted that the witnesses before the Enquiry Officer, have clearly established the illicit relationship between the petitioners herein during the subsistence of their marriages with their respective spouses and therefore, the charges are constrained to be a misconduct under the police rules. Further, he submitted that due opportunity was extended to the petitioners during the enquiry and all the grounds raised in the further explanation, prior to imposing of



penalty, was considered by the disciplinary authority and the minimum punishment of postponement of increment has been levied.

5. I have given careful consideration to the submission made by the respective counsels.

6. In service jurisprudence, the powers of the High Court exercising its power under Article 226 of the Constitution of India, while dealing with punishments imposed by the disciplinary authority and confirmed by the appellate authority, is very limited. It is a well established proposition that such powers will not permit the writ Court to re-appreciate the evidence of the Enquiry Officer and delve upon the facts of the case.

7. It is not in dispute that the petitioner was given ample opportunity during the course of enquiry and the procedure contemplated under the Tamil Nadu Police Subordinate Services (Discipline & Appeal) Rules, 1955 for conducting of an enquiry and disposal of the appeal, has been duly complied with. The Enquiry Officer had taken into account the evidence let in before him and thereby held the charges proved. Pursuant to that, further explanations were called for and after dealing with the same, the disciplinary authority had imposed the punishment. The appellate authority had also taken into consideration the findings of the Enquiry Officer to the effect that the illicit intimacy between the petitioners herein was established and that the grounds raised by the petitioner in the appeal are not new grounds.

8. I do not find any infirmity in the procedure adopted by the delinquent officer, disciplinary authority or the appellate authority, while awarding and confirming the punishments. While that being so, I do not find any reason to interfere with the proceedings of the punishment imposed by the respondent herein.

9. In the result, both the writ petitions stand dismissed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

sbn



To

1.The Director General of Police,
Dr.Radhakrishnan Salai,
Mylapore,
Chennai 600 004.

2.The Deputy Inspector General of Police,
Vellore Range,
Vellore District.

3.The Superintendent of Police,
Vellore District.

4.The Assistant Commissioner of Police,
Home Guard North,
Chindadripet, Chennai.

+1cc to Mr.D.Vijayababu, Advocate (SR No.33115)

+1cc to Mr.D.Vijayababu, Advocate SR No.33116 (27/08/2021)

W.P.Nos.17594 & 17595 of 2016

RSV (CO)
PR (13/08/2021)