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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:12.07.2021

CORAM :

THE HON'BLE MR.JUSTICE M.S.RAMESH

W.P.No.43946 OF 2016

and

W.M.P.Nos.37780 and 37781 of 2016

M.Arul

...Petitioner

Vs.

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

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

3.The Addl. Commissioner of Police (Traffic),
Kilpauk Chennai-10 now at
Office of the Commissioner of Police,
Vepery, Chennai 600 007.

4.The Superintendent of Police,
Tamilnadu Commando Force,
Chennai 600 028.

...Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records in connection with the charge Memo in PR.No.4/2005 dated 22.8.2005 passed by the Superintendent of Police, Tamilnadu Commando Force the fourth respondent herein and the order of punishment dated, 21.9.2011 (communicated vide letter No.Endt.A3/5216/2011 dated 7.10.2011) passed by the Commissioner of Police, the second respondent herein and the order of rejection on appeal vide Rc.No.220527/AP IV(2)/2013 dated 22.10.2016 passed by the Director General of Police, the first respondent herein and quash the same consequently direct the respondents to extend all service benefits including promotion and regularisation of suspension period as duty.

For Petitioner : Mr.R.Murali,
for Mr.M.Vivekanandan

For Respondents : Mr.K.V.Sajeev Kumar,
Government Counsel



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that after enquiry, his name came to be dropped from the charge sheet. The petitioner herein was also similarly placed as that of Mr.Dharmaraj, whose name was also dropped from the charge sheet. Apart from the same, the alibi pleaded by Mr.Dharmaraj and petitioner herein are one and the same. There is absolutely no explanation as to how the petitioner was imposed with punishment of stoppage of increment for a period of two years without cumulative effect and the co-delinquent with similar overt acts, was imposed with punishment of 'Black Mark'. In view of the absence of any explanation, the ground of discrimination gains significance.

8. Likewise, originally the FIR came to be registered against the petitioner for his involvement in the criminal case in Crime No.2600 of 2005, Mr.T.Radhakrishnan, I.A.S., was also cited as accused No.46 in the same case. A mere involvement of the petitioner in the criminal case had prompted the respondents to frame charges against the petitioner herein, whereas similar involvement of Mr.T.Radhadrishnan was ignored. It is stated that prior to framing of charges, the petitioner herein was placed under suspension, whereas Mr.T.Radhakrishnan in spite of his involvement in the criminal case, was not suspended.

9.The aforesaid two cases of Mr.Dharmaraj and Mr.T.Radhakrishnan would clearly establish that all is not well, in the manner in which the petitioner was dealt with the punishment unlike his co-delinquent and the other person who was involved in the criminal case. In the absence of any explanation to the same from the respondents, this court is of the affirmed view that the punishment itself awarded against the petitioner cannot be sustained, on the ground of discrimination.

10. In view of the above observations, the impugned order dated 21.11.2016 in R.C.No.187406/AP IV (2)/2014 on the file of the first respondent is quashed. In view of the quashing of such proceedings, the petitioner shall be entitled for all monetary and other promotional benefits, which he would have been otherwise entitled



to, in the absence of the punishment awarded."

7. The petitioner herein is also similarly placed as that of M.Maruthupandi, wherein his name was initially shown as accused in Crime No.2600 of 2005 and his name was later dropped at the time of framing of charges. The action initiated by the respondents in imposing the punishment of Black Mark for the co-delinquent Dharmaraj and dropping the other co-delinquent T.Radhakrishnan from the disciplinary action, would amount to discrimination, insofar as the petitioner herein is concerned. Therefore, the petitioner herein, who was imposed with a punishment of withholding of increment for two years without cumulative effect, deserves similar orders as that of Marudhapandi's case (supra).

8. Accordingly, the order of punishment dated 21.09.2011, communicated vide letter dated 07.10.2011 passed by the second respondent and the order of rejection dated 22.10.2016 passed by the first respondent herein, are set aside. Consequently, the petitioner shall be entitled for all the mandatory and other consequential benefits, which he would have otherwise been entitled to in the absence of the punishments awarded. The petitioner is at liberty to make an appropriate representation to the concerned respondent, seeking such benefits and on receipt of the same, the concerned respondent shall consider the representation, within a period of eight weeks from the date of receipt of the representation. The Writ Petition stands allowed accordingly. There will be no order as to costs. Consequently, W.M.P.nos.37780 and 37781 of 2016 are closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

mrn/DP
To

- 1.The Director General of Police,
Mylapore, Chennai 600 004.
- 2.The Commissioner of Police,
Vepery, Chennai-7.
- 3.The Additional Commissioner of Police (Traffic),
Kilpauk Chennai-10 now at
Office of the Commissioner of Police,
Vepery, Chennai 600 007.



4.The Superintendent of Police,
Tamilnadu Commando Force,
Chennai 600 028.

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+1 CC to Mr.M.Vivekanandan, Advocate sr 32861.

W.P.No.43946 OF 2016

and

W.M.P.Nos.37780 and 37781 of 2016

SRA (CO)

SP (19/08/2021)