



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.07.2021

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

W.P.No.23461 of 2019

Ganesh Babu

.. Petitioner

-vs-

1. The State of Tamil Nadu,
Represented by its Secretary,
Department of Home, Fort St.George,
Chennai - 600 009.
2. The Director General of Police,
Mylapore, Chennai - 600 004.
3. The Commissioner of Police,
Greater Chennai, Vepery, Chennai - 600 007.
4. The Joint Commissioner of Police,
Central (East), Vepery, Chennai - 600 007. .. Respondents

Prayer: Petition under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, to call for the records made in Tha.Pa.No.41/Tha.P/Ki.Ma/2007 dated 17.07.2019 on the file of Fourth Respondent herein and quash the same as illegal and direct the respondents to consider the appeal on merits after giving opportunity to the petitioner to condoning the delay in preferring appeal submitted by the petitioner dated 16.02.2019 on the file of Commissioner of Police, Greater Chennai, Vepery, Chennai - 600 007 the Third Respondent herein to secure the end of justice.

For Petitioner : Mr.R.Sankarasubbu

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

O R D E R

By consent of both the parties, this writ petition is taken up for final disposal.

2. The brief facts of the case are as follows:
The petitioner herein, is levelled with certain charges, on



20.04.2009, pursuant to which an enquiry was conducted, by an order dated 05.02.2008. The second respondent herein, had imposed the punishment of reduction in Time Scale of Pay, by three stages for three years with cumulative effect. Instead of filing an appeal against the order of the second respondent, the petitioner had preferred a Mercy Petition against the fourth respondent and the same was rejected before the second respondent, by an order dated 13.10.2009.

3. In the mean time, the petitioner had challenged the Charge Memo before this Court, in W.P.No.17096 of 2007 and by an order dated 04.07.2018, the writ petition was dismissed with an observation that, the petitioner can challenge the Charge Memo, in accordance with law.

4. On the strength of the order passed by this Court, the petitioner herein, had filed an appeal before the third respondent herein on 16.02.2019 and the fourth respondent had rejected this appeal on 17.07.2019, on the ground that the appeal was belated and the limitation period for filing an appeal had expired. Challenging the same, the petitioner has filed the present writ petition.

5. The learned counsel for the petitioner, raised several grounds, challenging the punishment imposed by the Disciplinary Authority and stated that the original punishment itself cannot be sustained. The learned counsel further submitted that though he had raised all these grounds before the Appellate Authority, it was rendered futile, since the merits of the appeal was not gone into by the Appellate Authority, but was rejected only on the ground of limitation.

6. I have perused the grounds of appeal raised by the petitioner. Though, this Court does not intend to make any observation with regard to the merits of such grounds, there seems to be some points, which could be deliberated, before the Appellate Authority on merits. This Court has also taken note of the fact that after issuance of the Charge Memo to the petitioner, the petitioner has been in one way or the other, litigating before the Authorities, questioning the departmental action initiated against him. Though he has not approached the Appellate Authority in time, this Court intends to take a lenient view and remit the matter back to the Appellate Authority, for a fresh consideration, only on sympathetic grounds and also taking note of the fact that there could be some grounds, which can be canvassed before the Appellate Authority. It is made clear that the order of remittance to the Appellate Authority, is being made on the peculiar circumstances of this case and the same shall not be used as precedent, in any other case.



7. In the light of the above observations, the impugned order passed by the Appellate Authority dated 17.07.2019, is set aside and the matter is remitted back to the third respondent, for fresh consideration. The petitioner is at liberty to raise the additional grounds in the appeal, within a period of 15 days from the date of receipt of a copy of this order. On receipt of such additional grounds, if any, the third respondent herein shall endeavour to consider the original grounds of the appeal, dated 16.02.2019, along with additional grounds, if any and pass final orders, after giving opportunity to the petitioner, within a period of three months from the date of receipt of the additional grounds.

8. Accordingly, the writ petition stands disposed of. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

Pns

To

1. The Secretary,
The State of Tamil Nadu,
Department of Home,
Fort St.George,
Chennai - 600 009.
2. The Director General of Police,
Mylapore, Chennai - 600 004.
3. The Commissioner of Police,
Greater Chennai,
Vepery, Chennai - 600 007.
4. The Joint Commissioner of Police,
Central (East),
Vepery, Chennai - 600 007.

+1cc to the Government Pleader, S.R.No.37411

W.P.No.23461 of 2019

PM(CO)
HS(26/08/2021)