



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.12.2021

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THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.NO.5774 OF 2017

AND

W.M.P.NO.6174 OF 2017

R.Meenakshi Sundaram

...Petitioner

Vs

1. The Director General of Police
Mylapore, Chennai 600004.
2. The Commissioner of Police
Vepery, Chennai 600007.
3. The Joint Commissioner of Police, South Zone
St.Thomas Mount, Chennai 600016.

...Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records in connection with the charge memo PR No.88/PR (S) (2)/2005 dated 19.08.2005 issued by the Joint Commissioner of Police, South Zone, the 3rd Respondent herein and the order of punishment Rc.No.925/27979/SO 83/15 dated 31.10.2015 passed by the Commissioner of Police, the 2nd respondent herein and the order of rejection of appeal Rc.No.5132/AP IV(2)/2016 dated 20.10.2016 passed by the Director General of Police, the 1st respondent herein and quash the same consequently direct the respondents to extend all consequential service benefits to the petitioner.

For Petitioner : Mr.Ilamvazhudhi
for M/S.R.Babu

For Respondents : Mr.E.Veda Bagath singh
Special Government Pleader



O R D E R

The charges against the petitioner touches upon his alleged involvement in illegally obtaining and leaking out the General Knowledge question paper, for the selection of Grade-II Police Constables conducted by the Tamil Nadu Uniform Service Recruitment Board, Chennai in the year 2005. On similar set of charges, various employees of the Police department were proceeded departmentally.

2. The learned Counsel for the petitioner would submit that on identical charges, in so far as some of the co-delinquents are concerned, were quashed by this Court in the cases of M.Maruthupandi Vs. The Director General of Police and others in (W.P.No.7118 of 2017) and M.Arul Vs. The Director General of Police and others in (W.P.No.43946 of 2016). Following the decisions of M.Maruthupandi, and other co-delinquent namely M.Arul was also exonerated by quashing of the punishments through an order passed by this Court in W.P.No.43946 of 2016 dated 12.7.2021. Likewise, further action was dropped by the respondents themselves, for some of the co-delinquents. Since, the petitioner's case is identical with that of the other co-delinquents, the learned Counsel for the petitioner would submit that the punishment imposed by the respondents would amount to discrimination.

3. It is not in dispute that the alleged involvement of the petitioner under the charge memos are identical to that of the cases of M.Marudhupandi and M.Arul. In the case of M.Arul (supra), this Court had observed that the punishment imposed by the petitioner would amount to discrimination and accordingly the punishment was set aside. The relevant portion of the order reads as follows:-

"5. One of the co-delinquent M.Maruthupandi, who was levelled with similar charges and whose name was also dropped from the charge sheet, approached this Court by way of a Writ Petition in W.P.(MD)No.7118 of 2017, praying to quash the order of punishment and to grant monetary benefits.

6. In the aforesaid decision, this Court had observed that M.Maruthupandi, Dharmaraj & Mr.T.Radhakrishnan, I.A.S., were arrayed as accused in Cr.No.2600 of 2005. During the course of departmental proceedings, Dharmaraj, M.Maruthupandi were imposed with the punishment of Black Mark, while the co-accused Mr.T.Radhakrishnan, I.A.S., was dropped from the departmental proceedings. Citing this discrimination,



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it was held that the co-delinquent M.Maruthupandi would be entitled for all monetary and other promotional benefits. The relevant portion of the order passed in the case of Maruthupandi (supra) reads as thus:-

"6. Since the petitioner herein had raised the ground of discrimination alone for the purpose of setting aside the punishment, this court is not inclined to go into the grounds raised by him or to the findings of the Enquiry officer.

7. It is not in dispute that the co-delinquent, namely Mr.Dharmaraj was involved in the case in Crime No.2600 of 2015 and 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



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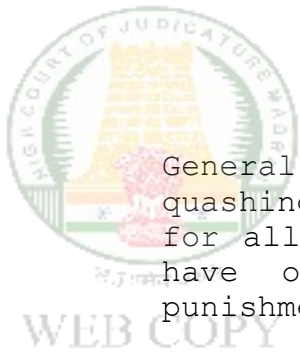
Mr.Dharmaraj and Mr.T.Radhakrishnan would clearly establish that all is not well, in the manner in which the petitioner was dealt with the punishment unlike his co- delinquent and the other person who was involved in the criminal case. In the absence of any explanation to the same from the respondents, 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)."

4. The aforesaid decision of this Court is self explanatory. In the instant case, for identical set of charges, the petitioner was imposed with a punishment of "Postponement of increment for two years without cumulative effect". By applying the ratio laid down in the aforesaid decision, the petitioner herein would also be entitled to succeed and as such punishment imposed requires to be set aside.

5. In the light of the above observations, the impugned order dated 31.10.2015 passed by the Commissioner of Police, the 2nd respondent herein and the order of rejection of appeal Rc.No.5132/AP IV(2)/2016 dated 20.10.2016 passed by the Director



General of Police, the 1st respondent are quashed. In view of the quashing of these punishments, the petitioner shall be entitled for all monetary and other promotional benefits, which he would have otherwise been entitled to, in the absence of the punishment imposed.

6. This Writ Petition stands allowed, accordingly. The connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

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To

1. The Director General of Police
Mylapore, Chennai 600004.
2. The Commissioner of Police
Vepery, Chennai 600007.
3. The Joint Commissioner of Police, South Zone
St.Thomas Mount, Chennai 600016.

+1cc to the Government Pleader, S.R.No.69051

W.P.No.5774 of 2017

KSM(CO)
RLP(12/01/2022)