



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	Pronounced on
26.03.2021	30.04.2021

WEB COPY

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.26302 of 2018

T.Ravichandran

... Petitioner

Vs

1. The Deputy Inspector General of Police,
Vellore.
2. The Inspector General of Police (L & O),
Chennai - 2.
3. The Director General of Police,
Dr.Radhakrishnan Salai,
Mylapore, Chennai - 4.
4. The Secretary to Government,
Home (Police IV-A) Department,
Fort St. George, Chennai-9.

... Respondents

Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, calling for the records of the first respondent in connection with the impugned order passed by him C No.B2/PR 11/98 dated 17.03.1998 and confirmed by the second respondent in RC No.114208/AP2(2)/98 dated 20.08.1998 and further confirmed by the third respondent in RC No.300390/AP.2(2)/2011 dated 05.11.2013 and further confirmed by the fourth respondent in his GO 2(D) No.318 Home (Police IV-A) Dept dated 15.09.2015 and G.O. (D) No.87, Home (Pol.IVA) Department dated 23.01.2018 and quash the same.

For Petitioner : Mr.M.Muthappan

For R1 to R4 : Mr.S.Thangavel Spl. GP

O R D E R

This writ petition has been filed for issuance of a writ of Certiorari, calling for the records of the first respondent in connection with the order passed in C.No.B2/PR 11/98 date 17.03.1998, which was confirmed by the second respondent in Rc.No.114208/AP2(2)/98 dated 20.08.1998 and further confirmed by



the third respondent in Rc.No.300390/AP.2(2)/2011 dated 05.11.2013 and by the fourth respondent in G.O.2(D) No.318, Home (Police IV-A) Department dated 15.09.2015 and G.O.(D)No.87 Home (Po.IVA) Department, dated 23.01.2018 and quash the same.

WEB COPY

2.The case as projected in the writ petition is as follows:

2.1 The petitioner entered the service as a directly recruited Sub-Inspector of Police on 15.09.1997. Subsequently, he was promoted as Inspector of Police (AR) in the year 2002 and was further promoted as Deputy Superintendent of Police Category-II in 2010.

2.2 While he was serving as Sub-Inspector, Vellore Traffic PS on 05.09.1997 at about 02.20 hours at Collectorate Junction, Sathuvachery, Vellore, the petitioner caused inspection of the vehicles passing through the gate in order to find out the vehicles operated with necessary credentials. At that point of time, the Superintendent of Police, Vellore District, came to the spot and searched the petitioner as if the petitioner was collecting money from the drivers of the vehicles. On the instruction of the Superintendent of Police, Vellore District, his subordinates one Ponniah and Sudarshan searched the petitioner and found a sum of Rs.1,050/- in a box at traffic junction and came to the conclusion that the same was the bribe amount received by the petitioner from the drivers of the vehicles and accordingly a statement was recorded by the Inspector of Police in the presence of the Superintendent of Police, Vellore District.

2.3 Consequently, the petitioner was issued with charge memo under Rule 3(b) of TNPSS (Discipline and Appeal) Rules in C.No.B1/PR.No.222/97 dated 11.09.1997, containing two charges. The petitioner denied the charges. However, Enquiry officer was appointed and enquiry was conducted, during the course of which, on the side of the Department, 5 witnesses were examined and 10 documents were marked. On the side of the petitioner, there was only one witness. The petitioner also submitted a written statement on 11.09.1998. After completion of enquiry, the Enquiry Officer filed his report to the disciplinary authority.

2.4 Subsequently, the petitioner was furnished with a copy of the Enquiry officer's report and was directed to submit his explanation to the same. Accordingly, he submitted his detailed representation on 25.02.1998. Being dissatisfied with the same, the Disciplinary Authority, viz.the Deputy Inspector General of Police, Vellore, passed final order agreeing with the findings of the Enquiry officer and imposing a punishment of reduction in three stages in the time scale for three years with cumulative effect.

2.5 Aggrieved by the aforesaid order of punishment, the



petitioner preferred a statutory appeal to the second respondent on 19.04.1998, but the same was rejected by order dated 20.08.1998. Challenging the same, the petitioner filed O.A.No.9680/1998, which was transferred to the file of this Court and renumbered as W.P.No.33800 of 2015. When the said Writ Petition came up for hearing on 27.01.2009, the then counsel, without getting instructions from the petitioner, represented that the writ petition has become infructuous and accordingly recording the said statement, this Court dismissed the writ petition as infructuous.

2.6 Thereafter, the petitioner filed a mercy petition to the third respondent on 27.07.2011 under Service Rule 15-A of TNPSS (D&A) Rules, wherein he specifically stated that no money was collected as bribe and the amount found out was his personal money, which was kept in the traffic umbrella in a plastic cover, and requested that he may be exonerated of the charges. The said mercy petition was also rejected by proceedings dated 05.11.2013 holding that punishment is commensurate with the nature of the delinquency.

2.7 Feeling aggrieved, the petitioner preferred a memo before the fourth respondent on 11.12.2013, which also got rejected by way of passing G.O.2(D)No.318 Home (Police IV-A) Department dated 15.09.2015. The petitioner again preferred a memorandum to the Government for modifying the punishment on the sole ground that the guidelines issued by the Government for dealing with the departmental action, have not been strictly followed and also citing various other grounds including irregularities in the conduct of the oral enquiry. But the said memorandum also got rejected by order dated 23.01.2018.

With the above background, challenging all the above orders, the present writ petition has been filed.

3.1 Upon notice, a detailed counter affidavit was filed by the first respondent in which it is stated that the officials have conducted proper search and only based upon Ex.P2-Admission statement given by the petitioner and duly signed by the other two delinquents, the said amount was seized from the petitioner; it is incorrect to state that the charges against the petitioner have been proved purely on suspicion and that the preliminary enquiry conducted under the direct supervision of the Superintendent of Police; and the first respondent rejected the representation of the petitioner, since there was no merit. The counter affidavit further proceeds to state that in the statutory appeal of the petitioner dated 19.04.1998 to the second respondent, there is no say about Charge No.2 about his negligence of duty in not writing the duty pocket note book then and there, after 24.08.1997 till 05.09.1997 at 2.00 hours.



3.2 It is specifically stated in the counter that the Enquiry Officer in his minute in P.R.No.227/1997 under rule 3(b) of the Tamil Nadu Police Subordinate Services (Discipline and Appeal) Rules, 1955 dated 20.01.1998, submitted detailed findings, which clearly establishes that the enquiry was conducted without any violation, as laid down in Police Standing Order No.73 of Vol-I. It is also stated that the proven charges warrant major punishment like removal of service, but considering the young age of the petitioner, the impugned punishment was awarded, which is nothing but rendering natural justice to the petitioner. Finally, it is stated that the respondents 2 and 3 after applying their mind in proper perspective, passed orders and rejected the petitioner's appeal. Similarly, the fourth respondent, after appraising the orders of the respondents 2 and 3 and on applying legal principles, rejected the mercy petition of the petitioner as devoid of merits. Therefore, no interference is required at the hands of this Court, according to the respondents.

4.1 The learned counsel for the petitioner submitted that the order of the disciplinary authority imposing a major penalty affecting pension, is a non-speaking order, without there being any reference to the further representation made by the petitioner to the Enquiry officer's report; further, the order of the second respondent, viz.Appellate Authority is equally a non-speaking order, since appeal grounds have not at all been considered; and the orders passed by the third and fourth respondents are also non-speaking orders. It is specifically submitted that the charge memo has been formulated in a vague manner without any particulars as to who offered the illegal gratification, number of vehicles etc. The learned counsel further submitted that though the petitioner defended in the enquiry that the money recovered was his personal money, the same was not taken into consideration for the sole reason that P.W.1 is an IPS Officer, whose statement alone has to be taken as gospel truth.

4.2 According to the learned counsel, the petitioner was not given reasonable opportunity to defend his case. In this connection, he submitted that the preliminary and oral enquiries conducted were held by the subordinate officers to P.W.1 and hence the Enquiry officer had no other choice but to accept the version of his senior, to hold that the charges have been proved. It is also specifically submitted that absolutely there is no evidence to show that the given charges against the petitioner are proved, but only on the suspicious statement given by P.W.1, the charges have been held as proved. Thus, the learned counsel submitted that the punishment imposed on the petitioner is excessive, exorbitant and disproportionate to the nature of the alleged delinquency and hence, the same is liable to be set aside.



been proved, etc., this Court is not inclined to accept the same.

9. On a reading of the documents placed before this Court would disclose that based on the inspection done by PW1/Superintendent of Police, Vellore District, the petitioner was subjected to disciplinary proceedings for having collected illegal money of Rs.1,015/- from the drivers of the vehicles during the inspection at night hours. The petitioner provided reasonable opportunity to defend his case at all stages. The Enquiry Officer, after evaluation of the materials and evidence placed before him, found that the preliminary enquiry was conducted under the direct supervision of the Superintendent of Police, Vellore District and the alleged bribe amount was recovered from the petitioner at the time of inspection. Though the petitioner defended that the alleged money was his personal amount out of his salary and he could not keep it at home due to non-availability of his wife, the said defence was rejected by the Enquiry Officer stating that the denomination of the recovered money did not show as such and there was no need to keep his personal money inside the traffic umbrella in a plastic cover kept in the fruit box. That apart, the petitioner did not give proper explanation to the charges framed against him and as regards the charge no.2 that he did not write his pocket diary note about the performance of his official duty from 24.08.1997 till 2.20 hours of 05.09.1997, there was no explanation much less plausible explanation forthcoming. Therefore, the Enquiry Officer rightly came to the conclusion that the charges framed against the petitioner have been proved. Further, the minutes of the Enquiry Officer in P.R.No.227/1997 under rule 3(b) of the Tamil Nadu Police Subordinate Services (Discipline and Appeal) Rules, 1955 dated 20.01.1998, would clearly demonstrate that the enquiry was conducted without any violation, as laid down in Police Standing Order No.73 of Vol-I. Accordingly, he filed the enquiry report before the disciplinary authority. Placing reliance on the same, the disciplinary authority passed the final order imposing the punishment on the petitioner. Feeling aggrieved, he preferred an appeal / representation / mercy petition before the respondent authorities, who in turn, applying their mind in proper perspective and following the legal principles, rightly rejected the same as devoid of merits, by the orders impugned herein.

10. At this juncture, it is to be pointed out that the petitioner already filed WP.No.33800 of 2006 to set aside the order of punishment, which was dismissed as infructuous; and thereafter only, he approached the respondent authorities under Rule 15A of the TNPSS (D&A) Rules. Though it was stated by the petitioner that the said order was passed by this Court based on the misrepresentation of his erstwhile counsel, the petitioner did not take steps to file any petition or appeal as against the



said order passed in the writ petition. Hence, there is no bona fide in the submission so made by the petitioner.

11. Be it noted, the police force plays a significant role in running the administration of our country. They are important constituents of the administrative setup and are pillars of the Government on whose shoulders the responsibility to implement the policies of the Government lies. They provide services to the public at the grass roots level in order to maintain law and order and peace and tranquillity in the each and every locality. Therefore, they should not have been involved in corrupt activities to tarnish the image and reputation of them as well as their department.

12. In this context, it would be appropriate to quote the observation of the Supreme Court in K.C. Sareen v. CBI, [2001 (6) SCC 584], which is profitably, extracted hereunder:

"Corruption by public servants has now reached a monstrous dimension in India. Its tentacles have started grappling even the institutions created for the protection of the republic. Unless those tentacles are intercepted and impeded from gripping the normal and orderly functioning of the public offices, through strong legislative, executive as well as judicial exercises the corrupt public servants could even paralyse the functioning of such institutions and thereby hinder the democratic polity. Proliferation of corrupt public servants could garner momentum to cripple the social order if such men are allowed to continue to manage and operate public institutions. When a public servant was found guilty of corruption after a judicial adjudicatory process conducted by a court of law, judiciousness demands that he should be treated as corrupt until he is exonerated by a superior court. The mere fact that an appellate or revisional forum has decided to entertain his challenge and to go into the issues and findings made against such public servants once again should not even temporarily absolve him from such findings. If such a public servant becomes entitled to hold public office and to continue to do official acts until he is judicially absolved from such findings by reason of suspension of the order of conviction it is public interest which suffers and sometimes even irreparably. When a public servant who is convicted of corruption is allowed to continue to hold public office it would impair the morale of the other persons manning such office, and consequently that would erode the



WEB COPY

already shrunk confidence of the people in such public institutions besides demoralising the other honest public servants who would either be the colleagues or subordinates of the convicted person. If honest public servants are compelled to take orders from proclaimed corrupt officers on account of the suspension of the conviction the fall out would be one of shaking the system itself. Hence, it is necessary that the court should not aid the public servant who stands convicted for corruption charges to hold only public office until he is exonerated after conducting a judicial adjudication at the appellate or revisional level. It is a different matter if a corrupt public officer could continue to hold such public office even without the help of a court order suspending the conviction."

13. In the ultimate analysis, this Court is of the opinion that there cannot be any leniency or otherwise in respect of dealing with the corruption cases and the public servants involved in corrupt activities should have been dealt with iron hand. In the case at hand, the respondent authorities, taking note of all the factors and totality of the circumstances and having regard to the gravity of the charges framed against the petitioner and evaluating the same in the light of the documents and materials placed, have rightly passed the orders impugned herein. In the absence of any concrete material produced on the side of the petitioner to substantiate his defence, there is no need to interfere with the said well considered findings of the respondent authorities.

14. Therefore, the writ petition deserves to be dismissed as devoid of merits and is accordingly, dismissed. No costs.

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

rk
To

1. The Deputy Inspector General of Police,
Vellore.
2. The Inspector General of Police (L & O),
Chennai - 2.



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

4. The Secretary to Government,
Home (Police IV-A) Department,
Fort St. George, Chennai-9.

+lcc to Mr.R.M.Makesh Kumaravel, Advocate, S.R.No. 26909
+lcc to the Government Pleader, S.R.No. 27030

W.P.No.26302 of 2018

AD(CO)
GN(15/07/2021)