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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.10.2021

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THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.29968 of 2018
and
WMP.Nos.34971 & 34972 of 2018

(Through Video Conferencing)

P.Chinnaraju

... Petitioner

Vs

1. The Director General of Police,
Dr.Radhakrishnan Road,
Mylapore, Chennai - 4.

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

3. The Superintendent of Police,
Tiruvannamalai District.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue Writ of Certiorarified Mandamus, to call for the records of the respondents in connection with the impugned orders issued by the respondents 2 & 3 in C.No.B1/AP.40/010414/2016 dated 27.09.2016 and Ma.Aa.No.425/2016, Na.Ka.No.H.1/PR No.76/2015 dated 03.08.2016 respectively quash the same and further direct the respondents to reinstate the petitioner into service with all consequential service and monetary benefits.

For Petitioner : Mr.K.Sanjay for
Mr.R.Dhineshkumar

For Respondents : Mr.L.S.M. Hasan Fizal

ORDER

The petitioner was served with an order of suspension on 04.07.2015 and thereafter a Charge Memo dated 14.10.2015 was issued to the petitioner on 14.10.2015. In the Disciplinary



Proceedings, four different charges were framed against the petitioner as detailed below:-

- (i) For having given the hand loan for a sum of Rs.2 lakhs to deceased Shanmugam.
- (ii) On 17.04.2015, the petitioner had kidnapped the deceased Shanmugam, abused him verbally and driven him to commit suicide.
- (iii) Criminal case in SC.No.182 of 2015 was filed against the petitioner which was pending before the Judicial Magistrate, Thiruvannamalai.
- (iv) On 22.04.2015, on account of torture and verbal abuse, the said Shanmugam committed suicide.

2. In the Disciplinary Proceeding, based on the report of the Enquiry Officer, the 3rd respondent dismissed the petitioner from service. About six witnesses were examined which included the deceased persons father, sister, wife and few others. Before the Enquiry Officer, Exs.1 to 13 were also marked. The Enquiry Officer found the petitioner guilty on the ground that the petitioner merely cross examined some of the witnesses but failed to appear and give evidence before the Enquiry Officer.

3. The Enquiry Officer has also noted that the petitioner has refused to sign the documents in the Enquiry Proceedings. Based on the aforesaid report of the Enquiry Officer dated 22.06.2016, the 3rd respondent passed the impugned order dated 03.08.2016 by dismissing the petitioner from service. Further, appeal to the 2nd respondent on 03.08.2016 was also rejected by the 2nd respondent vide dated 27.09.2016 with the following observation:-

"2. The Deputy Superintendent of Police, Thiruvannamalai Town Sub-Division, Thiruvannamalai District has conducted the Oral Enquiry and drawn the minute holding all the charges against the delinquent as proved. Agreeing with the findings of the Enquiry Officer, the appellant was awarded with the punishment of "Dismissal from Service" on 03.08.2016 by the Superintendent of Police, Thiruvannamalai District.

3. The appellant acknowledged the slip order on 18.08.2016 and preferred this appeal petitions on 09.09.2016. The appeal petition is within the time limit.

4. I have carefully gone through the appeal petition, the PR file along with the connected records. The appellant has not put forth any new



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point's worth for consideration in his appeal. All the contentions of the appellant were taken into account by the disciplinary authority before awarding the punishment. His explanation deserves no consideration. The punishment awarded by the disciplinary authority is also not excessive to this proven delinquency. Hence, I decline to interfere and reject the appeal."

4. Appearing on behalf of the petitioner, the learned counsel for the petitioner submits that except the deceased wife, no other person has given evidence to substantiate the charge against the petitioner, that the petitioner was responsible for the death of her husband Shanmugam.

5. The learned counsel for the petitioner submits that there is no evidence to substantiate that the deceased Shanmugam was kidnapped on 17.04.2015 and died due to harassment and therefore it is submitted that the impugned order passed by the third respondent which was affirmed by the second respondent was liable to be quashed.

6. Appearing on behalf of the respondents, the learned Government Advocate submits that the impugned order is well reasoned and requires no interference.

7. The learned counsel for the respondents further submits that a Judicial review against an order in a disciplinary proceeding is to be confined only the decision making progress and not the decision. It is submitted that the petitioner has not brought out any infirmity in the procedure adopted by the 3rd respondent or by the 2nd respondent as an appellate authority.

8. Heard the learned counsel for the petitioner and the learned counsel for the respondents and perused the impugned order passed by the 3rd respondent and the 2nd respondent dated 03.08.2016 and 27.09.2016 respectively.

9. It is noticed that the petitioner has sent a mercy petition on 27.06.2017 to the second respondent. Though the order of the 2nd respondent has affirmed the order of the 3rd respondent holding that the petitioner guilty of not co-operating with the Enquiry Officer during the enquiry proceedings resulting in an exparte finding of the Enquiry Officer, it is noticed that the order of the 2nd respondent as an appellate authority has passed a non-speaking order.

10. Considering the same, the order passed by the 2nd respondent on 27.09.2016 is quashed and the case is remitted back to the 2nd respondent to pass a speaking order on merits and



in accordance with law after considering all the submissions of the petitioner within a period of 12 weeks from the date of receipt of copy of this order. While passing such order the 2nd respondent shall also consider the mercy petition of the petitioner.

11. This Writ Petition is disposed of with the above observation. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

drl

To

1. The Director General of Police,
Dr.Radhakrishnan Road,
Mylapore, Chennai - 4.
2. The Deputy Inspector General of Police,
Vellore Range, Vellore District.
3. The Superintendent of Police,
Tiruvannamalai District.

+1cc to M/s.R.Dhineshkumar, Advocate, S.R.No.53744

+1cc to the Government Pleader, S.R.No.53900

W.P.No.29968 of 2018
and
WMP.Nos.34971 & 34972 of 2018

RR(CO)
SU(26/11/2021)