



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.04.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P(MD)No.7970 of 2021

and

W.M.P(MD)No.6083 of 2021

WEB COPY

G.Abdul Khadar Ibrahim

... Petitioner

vs.

1.The Commissioner of Police,  
Madurai City,  
Madurai.

2.The Deputy Commissioner of Police,  
Armed Reserve,  
Madurai City.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the records pertaining to the impugned order in T2(1)/Ta.Pa.No.98/2019/Rule 3(b) dated 30.11.2019 on the file of the second respondent and the consequential impugned order in Na.Ka.No.T2(1)/Ta.Pa.98/2019 Rule 3 (b) dated 23.03.2021 on the file of the second respondent and quash the same.

For Petitioner : Mr.T.Lajapathi Roy

For Respondents : Mr.C.Ramesh  
Special Government Pleader

**ORDER**

This Writ Petition is filed seeking for a Writ of Certiorari, to call for the records pertaining to the impugned order in T2(1)/Ta.Pa.No.98/2019/Rule 3(b), dated 30.11.2019 on the file of the second respondent and the consequential impugned order in Na.Ka.No.T2(1)/Ta.Pa.98/2019 Rule 3(b), dated 23.03.2021 on the file of the second respondent and quash the same.

2.Mr.C.Ramesh, learned Special Government Pleader accepts notice on behalf of the respondents.

3.According to the petitioner, he was appointed in the post of Grade II Police Constable on 14.03.2009 and thereafter, promoted to the post of Grade I Police Constable in the year 2019. The petitioner applied for earned leave from 09.11.2018 to 09.12.2018 for the purpose of visiting Mecca and Madina for religious pilgrimage and the same was duly sanctioned vide proceedings, dated 07.11.2018. Due to infection in his leg, the petitioner reported to the office on 10.12.2018 with Medical Certificate for the purpose of extending the leave and after completion of the medical leave from



10.12.2018 to 30.12.2018, the petitioner has rejoined duty on 31.12.2018 and working in the said post of Grade I Police Constable. In the circumstances, the second respondent had issued the proceedings, dated 24.10.2019, asking him to furnish the explanation for conducting preliminary enquiry and the petitioner has also furnished the explanation. However, the second respondent has issued the impugned order, dated 30.11.2019 framing charge against the petitioner. The Enquiry Officer vide minutes, dated 12.01.2021, stated that the charge has been proved. Without considering the explanation submitted by the petitioner, the second respondent, vide order dated 23.03.2021, issued the consequential impugned order of punishment of "postponement of next increment for a period of three years which shall operate to postpone his future increments". Challenging the impugned orders passed by the second respondent, dated 30.11.2019 and 23.03.2021, the petitioner has filed the present Writ Petition.

4.The learned counsel appearing for the petitioner submitted that the impugned order is passed on the ground of non-compliance of procedure contemplated under Rule 3(b)(ii) of the Tamil Nadu Police (Discipline and Appeal) Rules, 1955, which mandates consideration of the further representation by the Disciplinary Authority and prayed for setting aside the impugned order of punishment.

5.The learned Special Government Pleader appearing for the respondents submitted that the petitioner has an alternative appeal remedy and it is for him to file an Appeal and prayed for dismissal of the Writ Petition.

6.Heard the learned counsel appearing for the petitioner and the learned Special Government Pleader appearing for the respondents.

7.Considering the fact that against the orders passed by the second respondent, appeal remedy is available and without exhausting the appeal remedy, the petitioner has straight away approached this Court by way of filing the present Writ Petition. Hence, this Writ Petition is not maintainable and the same is liable to be dismissed. Accordingly, the Writ Petition is dismissed. It is open to the petitioner to file appeal, if he is so advised. No costs. Consequently, connected Miscellaneous Petition is dismissed.

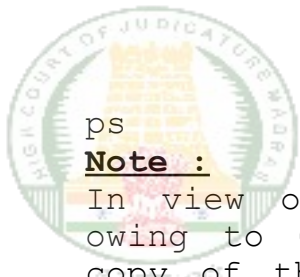
Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



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**Note :**

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

1.The Commissioner of Police,  
Madurai City,  
Madurai.

2.The Deputy Commissioner of Police,  
Armed Reserve, Madurai City.

+1 CC to M/s.SPL GP ( SR-16487[F] dated 19/04/2021 )

+1 CC to M/s.T.LAJAPATHI ROY, Advocate ( SR-16396[F] dated 19/04/2021 )

**W.P(MD)No.7970 of 2021**

**17.04.2021**

RK (28.04.2021) 3P 5C