



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.06.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P. (MD)No.7430 of 2019

and

W.M.P(MD)No.5945 of 2019

M.Manoharan

... Petitioner

Vs.

- 1.The State of Tamilnadu,
Rep. by its Additional Chief Secretary to Government,
Home Department,
Fort St. George,
Chennai-600 009.
 - 2.The Director General of Police,
Chennai-600 004.
 - 3.The Commissioner of Police,
Tirunelveli City,
Tirunelveli.
 - 4.The Deputy Commissioner of Police (Law & Order),
Tirunelveli City,
Tirunelveli.
- ... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records of the first respondent in G.O(D) No.1299, Home (Police VI) Department, dated 08.11.2018 and the proceedings of the second respondent in Rc.No.289246/AP 2(1)/2011, dated 29.11.2012 and the Proceedings of the fourth respondent in PR.No.26/2020 u/r 3(b) dated 21.02.2011 and quash the orders dated 08.11.2018, 29.11.2012 and 21.02.2011.

For Petitioner : Mr.D.Srinivasaragavan

For Respondents : Mr.P.Subbaraj
Government Advocate

ORDER

This writ petition is filed to quash the Government Order in G.O(D) No.1299, Home (Police VI) Department, dated 08.11.2018 issued by the first respondent and the proceedings of the second respondent in Rc.No.289246/AP 2(1)/2011, dated 29.11.2012 and the Proceedings of the fourth respondent in PR.No.26/2020 u/r 3(b) dated 21.02.2011.



2. According to the petitioner, he is working as Special Sub Inspector of Police (SSI) in Tirunelveli City. While he was working as Head Constable in Tirunelveli Pettai Police Station, he was placed under suspension on 20.01.2010. The departmental proceedings has been initiated by issuing charge memo, dated 29.04.2010, containing two charges. After conducting an enquiry, the enquiry officer filed a report stating that both the charges are proved. The fourth respondent after issuing the second show cause notice, considering the explanation given by the petitioner, by order, dated 21.02.2011 in P.R.No.26/2010, imposed a punishment of reduction in time scale of pay by three stages for three years and that the period of reduction shall not operate to postpone future increments of the petitioner. The petitioner filed mercy petition to the second respondent on 11.07.2011. The second respondent considered the same, modified the punishment by order, dated 29.11.2012, as postponement of increment for one year without cumulative effect. The petitioner again filed mercy petition and the same was rejected. Challenging the same, the petitioner has come out with the present writ petition.

3. The learned counsel appearing for the petitioner submitted that the petitioner has no intention to participate in the political meeting. He went only to assist his wife for Charity programme. Even though, the second respondent has given finding that there is no default on the part of the petitioner, the punishment imposed on the petitioner by the second respondent, is not warranted in the facts and circumstances of the case. The respondents did not consider the evidence of P.W.1 that petitioner did not organize the function and the respondents ought to have seen that he has no intention to participate in the political meeting and he was present only to assist his spouse for a charity program and therefore the allegations that he participated in a political meeting is incorrect and the punishment imposed on the petitioner is arbitrary and violates Article 14 of the Constitution of India. The first respondent ought to have seen that the second respondent has given a finding that there is no default on the petitioner therefore imposition of punishment on the petitioner is not warranted in the given fact and circumstances of the case. The respondents ought to have seen that even according to P.W.1 the petitioner did not organise the function and he was facilitated by the organisers by presenting towels and the petitioner spoke few words and thanked them. Therefore the defense of the petitioner that he was unaware that the meeting was organised by a political party is acceptable and the impugned orders are liable to be set aside.

4. The respondents filed counter. Mr.P.Subbaraj, learned Government Advocate appearing for the respondents submitted that even after coming to know that meeting was organized by Political Party, the petitioner participated in the meeting, accepted the



considering the entire materials, explanation of the petitioner, imposed a punishment of reduction in time scale of pay by three stages for three years and that the period of reduction shall not operate to postpone future increments of the petitioner. The first respondent considering the mercy petition filed by the petitioner, modified the punishment imposed by the fourth respondent, which itself gave great relief to the petitioner. In view of the same, the petitioner is not entitled for further relief in the present writ petition and prayed for dismissal of the writ petition.

5. Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents and perused the entire materials available on record.

6. From the materials on record, it is seen that petitioner's wife is running Charitable Institutions and she has donated sarees and dhoties for the needy people of Thenpathu Village and to distribute the same, a function was organized. The petitioner accompanied with his wife and his children in the function. In the function, the petitioner participated as husband of the person, who donated sarees and dhoties to the poor and needy people. It is not the case of the respondents that petitioner has arranged the meeting along with political party. The petitioner, who is in Uniformed Service, participated in the meeting and enquiry officer held that charges are proved. The second respondent considering the same held that the charges are proved and the same warrants punishment. Considering the nature of charges, the first respondent modified the punishment viz., from reduction in time scale of pay by three stages for three years and that the period of reduction shall not operate to postpone future increments of the petitioner, to postponement of increment for one year without cumulative effect.

7. Considering all the materials in its entirety as held by the second respondent that the charges levelled against the petitioner are proved, the same warrants punishment, but considering the nature of charges, this Court modified the punishment to the effect that postponement of increment for six months without cumulative effect.

8. With the above modification, the writ petition is partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

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 Additional Chief Secretary to Government,
Home Department, Fort St. George,
Chennai-600 009.

2.The Director General of Police,
Chennai-600 004.

3.The Commissioner of Police,
Tirunelveli City, Tirunelveli.

4.The Deputy Commissioner of Police (Law & Order),
Tirunelveli City, Tirunelveli.

+1 CC to M/s.D.SRINIVASARAGAVAN, Advocate (SR-19807[F] dated
22/06/2021)

W.P. (MD)No.7430 of 2019
21.06.2021

PM(CO)
TR(30.06.2021) 4P 6C