



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.02.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P. (MD) No.1376 of 2018

and

W.M.P. (MD) Nos.1460 and 22442 of 2018

WEB COPY

Muniyasamy

... Petitioner

vs.

1. The Director General of Police,
Beach Road, Chennai-600 004.

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

3. The Superintendent of Police,
Ramanathapuram, Ramanathapuram District. ... Respondents

PRAYER: Writ Petitions filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records on the file of the third respondent bearing C.No.F1/P.R. No.123/08, dated 21.04.2009 and the consequential order passed by the second respondent in appeal bearing No.C.No.B1/Appeal 58/2009, dated 23.07.2009 and the order passed by the first respondent in Review Bearing RC.No.175444/AP.1(2)/2009 dated 19.11.2009 and to quash the same as illegal and consequently direct the respondents to set aside the punishment awarded to the petitioner in P.R.No.123 of 2008 u/r 3(b) with consequential benefits.

For Petitioner : Mr.S.C.Herold Singh

For R-1 to R-3 : Mrs.J.Padmavathi Devi

Special Government Pleader

O R D E R

Heard Mr.S.C.Herold Singh, learned counsel for the petitioner and Mrs.J.Padmavathi Devi, learned Special Government Pleader appearing for the respondents.

2. On couple of charges levelled against the petitioner herein, the third respondent herein had imposed the punishment of postponement of increment for a period of two years with cumulative effect, through the impugned order dated 21.04.2009. As against the said order, an appeal came to be filed and the second respondent herein, who is the Deputy Inspector General of Police, had confirmed the punishment imposed by the third respondent through his order dated 23.07.2009. The first



respondent had concurred with the decision of the second and third respondents and rejected the petitioner's Review Petition through his order dated 19.11.2009 and all these orders are put under challenge in the present Writ Petition.

3. Though the petitioner has raised several grounds challenging these impugned orders, the learned counsel for the petitioner would embark upon that the First Appellate Authority had passed a non speaking order.

4. The learned Special Government Pleader however would object his submission and state that the first respondent had in detail considered the findings of the Enquiry Officer and had come to a right conclusion. According to the learned Special Government Pleader, the punishment imposed was proportionate to the charges and therefore, there was no infirmity in the decision of the first and second respondents confirming the original punishment.

5. Rule 6 of the Tamil Nadu Police Subordinate Service (Discipline and Appeal) Rules, 1955, stipulates the mode in which the Appellate Authority is mandated to consider the appeal against the orders of the Disciplinary Authority. The said Rule 6 reads as hereunder

"Rule 6. (1) In the case of an appeal against an order imposing any penalty specified in Rule 2, the Appellate Authority shall consider:

(a) Whether the facts on which the order was based have been established;

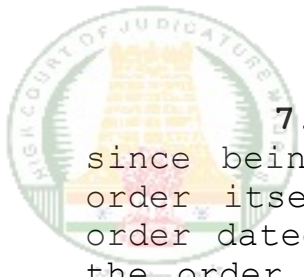
(b) Whether the facts established afford sufficient ground for taking action; and

(c) Whether the penalty is excessive, adequate or inadequate and after such consideration, shall pass orders.

(i). confirming, enhancing, reducing or setting aside the penalty; or

(ii). remitting the case to the authority which imposed the penalty or to any other authority with such directing, as it may deem, fit in the circumstances of the case:"

6. Thus, it is seen that the Appellate Authority, while considering the appeal imposing penalty, should apply their mind on the aforesaid aspect and pass appropriate speaking orders. In the instant case, the second respondent herein, while passing the order dated 23.07.2009, had made a cryptic order without following the guidelines stipulated under Rule 6 of the aforesaid Rules and rejected the appeal in a single line stating that the punishment given is commensurate with the gravity of the delinquency committed and hence he is not inclined to interfere with the orders of the Disciplinary Authority.



7. Apparently, the order is a non speaking order and since being in violation of Rule 6 of the aforesaid Rules, the order itself cannot be sustained. In the result, the impugned order dated 23.07.2009 passed by the second respondent as well as the order dated 21.04.2009 passed by the third respondent herein stand quashed. Consequently, the matter is remanded back to the second respondent for fresh consideration. The second respondent shall adhere to the procedure contemplated under Rule 6 of the Tamil Nadu Police Subordinate Service (Discipline and Appeal) Rules, 1955, while disposing of the petitioner's appeal petition. The Second respondent shall also endeavour to complete the appeal proceedings as expeditiously as possible.

8. The Writ Petition stands allowed in the above terms. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

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/ /2021

Sub Assistant Registrar(CS)

tsg

To

1. The Director General of Police,
Beach Road, Chennai-600 004.
2. The Deputy Inspector General of Police,
Ramanathapuram Range, Ramanathapuram District.
3. The Superintendent of Police,
Ramanathapuram, Ramanathapuram District.

+1 CC to Mr.S.C.HEROLD SINGH, Advocate (SR-4401[F] dated 11/02/2021)

+1 CC to SPL GP (SR-4669[F] dated 12/02/2021)

Order made in

W.P. (MD) No.1376 of 2018

and

W.M.P. (MD) Nos.1460 & 22442 of 2018

Dated :

10.02.2021

KM (18.02.2021) 3P 6C