



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.12.2021

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THE HON'BLE DR.JUSTICE ANITA SUMANTH

W.P. (MD)No. 3440 of 2018

D. Prema

...Petitioner

-vs-

1. The Principal Secretary to Government,
Home Department,
Government of Tamil Nadu,
St. George Fort,
Chennai.
2. The Director General of Police,
Government of Tamil Nadu,
Chennai - 600 004.
3. The Additional Director General of Police,
Law and Order,
Chennai - 600 006.
4. The Deputy Inspector General of Police,
Tirunelveli Range,
Tirunelveli.
5. The Superintendent of Police,
Kanyakumari District,
Nagercoil.
6. The Superintendent of Police,
Tirunelveli District,
Tirunelveli.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, for the issuance of a writ of certiorari, calling for the records pertaining to the order passed by the first respondent through G.O. (D) No. 47 Home (Police. IV A) Department dated 08.01.2018 received on 07.02.2018 conforming the orders passed by the second respondent through his proceedings Rc.No.143441/AP.2(1)/2016 dated 21.07.2017 following the order passed by the third respondent through his proceedings Rc.No.88449/AP.2(1)/2016 dated 02.07.2016 modifying the order passed by the fourth respondent through his proceedings C1/1453/2015 dated 27.01.2016 and quash the same. 21

<https://hcservices.ecourts.gov.in/hcservices/>



For Petitioner : Mr. T.S. Mohamed Mohidheen
For Respondents : Mr. K.S. Selvaganesan,
Additional Government Pleader

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ORDER

Heard Mr. T.S. Mohamed Mohidheen, learned counsel for the petitioner and Mr. K.S. Selvaganesan, learned Additional Government Pleader for the respondents.

2. The petitioner was working as a Sub Inspector of Police in the All Women Police Station, Kollachal and challenges an order passed by the fourth respondent on 27.01.2016 modified by the third respondent on 02.07.2016 and confirmed, as modified, by the first and second respondents, on 21.07.2017 and 08.01.2018 respectively.

3. The charge laid as against the petitioner was that she had appropriated a cell phone which constituted case property. The said cell phone had been recovered from an accused in connection with crime No. 957 of 2014. The charge is admitted to by the petitioner who confirms that she had in fact taken the cell phone and kept in her table drawer.

4. With the admission of the charge, the only thing that remains is to ascertain whether the punishment imposed was perverse or entirely disproportionate to the charge. The punishment initially laid was postponement of increment for a period of three years which shall operate to affect future increments.

5. This has been subsequently modified to postponement of next increment for a period of two years, which shall not operate to postpone her future increments. I do not find the punishment disproportionate to the charge made.

6. That apart, the only other point argued is that the original punishment in this case was imposed by the Deputy Inspector General of Police whereas the original authority ought to have been the Superintendent of Police.

7. Though the petitioner would argue that by virtue of R3 having passed the first order, she has lost one right of appeal, this is not correct insofar as the petitioner has challenged the order of R4 before R3, thereafter before R2 and finally before R1. Thus, the petitioner has not lost a right of appeal, as contended.

8. She is however right in stating that jurisdiction has been assumed by wrong authority at the original instance. A perusal of the Schedule to the Tamil Nadu Police Subordinate Service (Disciplinary and Appeal) Rules, 1955, would reveal that the original authority to have imposed punishment of withholding an increment or promotion or stoppage would be, for the Tamil Nadu Police Subordinate Service, the Superintendent of Police.

9. In view of the fact that I have not interfered with the punishment bearing in mind the gravity of the charge and the <https://hcservicescourts.gov.in/hcservices/> imposed, this question, in my view, becomes academic in



this writ petition. In light of the discussion as above, the impugned order stands confirmed and the writ petition is dismissed. No costs.

Sd/-

Assistant Registrar (CS-II)

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/ /2022

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

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6. The Superintendent of Police,
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+1 CC to M/s.SPL GP (SR-38600[F] dated 14/12/2021)

+1 CC to M/s.T.S.MOHAMED MOHIDHEEN, Advocate (SR-38651[F] dated 14/12/2021)

W.P. (MD)No.3440 of 2018

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RD(04.02.2022) 3P 9C