



WEB COPY

W.P.(MD)No.16373 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT  
DATED: 30.11.2021  
CORAM

**THE HONOURABLE MRS.JUSTICE S.SRIMATHY**

**W.P. (MD)No.16373 of 2014**

**and**

**M.P (MD) .Nos. 1 and 2 of 2014**

A.Sekar

... Petitioner

vs..

1.The Secretary to Government,  
Home (SC) Department,  
Government of Tamil Nadu,  
Fort St.George,  
Chennai - 600 009.

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

3.The Superintendent of Police,  
Trichy District.

4.The Chairman,  
The Tamil Nadu Public Service Commission,  
Greens Road,  
Chennai - 600 006.

... Respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned Memorandum of Charge in Rc.No.232501/ Con V(2)/2004-3 dated 07.04.2005, impugned enquiry report of the third respondent, dated 28.04.2007 and impugned punishment of third respondent dated, 27.05.2008 and the consequent impugned order of first respondent in G.O.2(D) No.228 Home (SC) Department, dated 21.04.2008, quash the same and consequently direct the respondents herein to pay the increment and pay on par with other similarly placed Inspector of Police, CBCID, and to pay the arrears increment with effect from 01.04.2009 within a reasonable time as may be fixed by this Court.

|                |                                             |
|----------------|---------------------------------------------|
| For Petitioner | : Mr.V.Janakiramulu                         |
| For R-1 to R-3 | : Mr.J.K.Jayaselan,<br>Government Advocate. |
| For R-4        | : Mr.J.Anandha Kumar<br>Senior Counsel      |



**O R D E R**

This Writ Petition is filed for issuance of a Writ of Certiorarified Mandamus, to quash the impugned Memorandum of Charge, dated 07.04.2005, impugned enquiry report of the third respondent dated 28.04.2007 and impugned punishment of third respondent dated 27.05.2008 and the consequent impugned order of first respondent in G.O.2(D) No.228 Home (SC) Department dated 21.04.2008 and consequently direct the respondents herein to pay the increment and pay on par with other similarly placed Inspector of Police, CBCID, and to pay the arrears increment with effect from 01.04.2009.

2. The petitioner was appointed on 16.04.1999 and his service was regularized on the same day on 16.04.1999. When the petitioner was working as Inspector of Police, CBCID, Sivagangai, a Charge Memo, dated 07.04.2005 is issued stating as follows:

*"i. That on 08.11.2001 when I was working as Sub Inspector of Police at Thillai Nagar Police Station, Trichy, I alleged to have mentioned in my note book that I left the station at 14.00 hours for performing the work of checking up beat between 14.00 hours and 22.45 hours, but contrarily on 08.11.2001 at 17.15hours, I alleged to have checked PC 2457 Ravichandran at Farmers's Shandy and recorded this in the Beat Book (No.55), but I have not recorded it in my note book and in the note book of the said PC and also in the Thillai Nagar Station General Diary on 08.11.2001; and*

*ii. That on 08.11.2001 at 20.30 hours, I alleged to have come to Thillainagar Police Station, a person running a jewel shop at Salai Road came to the station and reported to me about a theft at his shop and I alleged to have directed and sent HC-376 Thangavel to go to the spot and enquire at about 20.45 hours, but contrarily, I alleged to have recorded in my note book that I left the station at 14.00 hours on 08.11.2001 and have also intentionally not recorded my visit to the station at 20.30 hours, the report of theft case and my stay at the station till 20.45hours in my note book and station General Diary."*

3. The petitioner submitted an explanation refusing the charges. The petitioner submitted that the disciplinary proceedings have been initiated on a very flimsy ground, vide charge memo, dated 07.04.2005, that too after lapse of four years. The petitioner has stated that since it was during Deepavali time and due to heavy bandobust duty the petitioner could not make proper entries in the book and it is neither intentional nor failure on his part, the same



has not proved and it has been alleged without proper verification or evidence on record.

4. As far as the second charge, when the jewel shop owner preferred a theft complaint, the petitioner had directed one HC-376 Thangavel at 20.45 pm, to visit the spot and to make enquiry but had entered false entry in the book that the petitioner had left the police station by 14 pm. The allegation against the petitioner that the petitioner had come to station by 20.30 pm and enquired until 20.45 pm but had not entered the same in the note book. For this the petitioner has submitted that on 08.11.2001 the petitioner left Thillai Nagar police station for beat checkup and made entries in the beat book of PC 2457 Ravichandran and went for bandobust work, in view of the Deepavali festival and came to the Thillai Nagar police station only at 22.45 hours and not 20.30 hours as alleged in the second charge. The petitioner states that since he was not in the police station between 20.30 hours and 20.45 hours, he did not know about any complaint by the jewel shop owner and there is no possibility of directing the Thangavel to visit the spot.

5. Based on the above explanation, an enquiry was ordered and the petitioner had participated in the enquiry. Two witnesses of the respondent Thangvel, PC 376 and Ayythurai, PC294 turned hostile and in the cross-examination denied that they were not present at the Thillai Nagar Police Station. As far as the said Ravichandran is concerned, he has admitted in the cross examination that he did not keep his note book during the beat check up carried out by the petitioner. It is the specific case of the petitioner that he came to the Police Station only after the bandobust duty at 22.45p.m., on 08.11.2011. The third witness for the respondent has also given a contradictory statement falsifying the charge against the petitioner.

6. The petitioner has stated since, there is no complaint about the alleged theft and no identity of complainant and no proof for location of shop, the claim of the petitioner is that there is no such occurrence at all, as stated in the second charge. The petitioner had submitted an explanation and also submitted further explanation. Thereafter, the first respondent imposed the punishment with stoppage of increment for a period of two years with cumulative effect, vide the impugned G.O.2(D)No.228, dated 21.04.2008. Aggrieved over the petitioner submitted a review application to the first respondent on 25.06.2008. The first respondent has obtained consent and approval from the fourth respondent, TNPSC for the proposed punishment and finally dismissed the Review Petition, vide G.O.(2D)No.541 Home (SC) Department, dated 16.11.2010, confirming



the punishment of the petitioner. Thereafter, the petitioner submitted representations, dated 18.04.2011 and 28.06.2011, requesting for grant of Selection Grade and again submitted representation, dated 31.08.2011, for granting promotion as Inspector of Police.

7. The respondent has filed a detailed counter affidavit stating that the petitioner was serving as Sub-Inspector of Police, Thillai Nagar police station, Trichy, reiterated the charges and for all these irregularities disciplinary proceedings was initiated. Since the petitioner is serving in disciplined service, it is incumbent to carry out entries in beat book and the note book. The Enquiry Officer has stated that the petitioner has not carried out any proper entries in the books and the punishment awarded is legally valid.

8. Heard Mr.V.Janakiramulu, learned Counsel appearing for the petitioner and Mr.J.K.Jayaselan, learned Government Advocate appearing for the respondents 1 and 3. Mr.J.Anandha Kumar, learned Counsel appearing for the respondent 4.

9. The learned Counsel appearing for the petitioner relied on the circular issued, vide letter, (MS).No.118/Per-N/87 Personnel and Administrative Reforms (per-N) Department, dated 22.12.1987, for any investigation confirming all charges etc., should be completed within four months. The petitioner relied on the Supreme Court judgment report 2005 (4) CTC 403, where it has been specifically stated that the delay of ten years in initiating disciplinary proceedings and issuance of Charge Memo would render the departmental proceedings vitiated and that in the absence of any explanation for the inordinate delay in initiating such proceedings of charge memo, would justify the prayer for quashing the proceedings. On perusing the records it is seen that the delinquencies alleged has taken place on 08.11.2011, wherein the charge was issued on 18.04.2005, which is belated one. Moreover the charges are the petitioner has not entered proper entries in the beat book, station diary which is flimsy.

10. The petitioner also submitted that he served in the department with unblemished records and he was awarded R.1,00,000/- (Rupees One Lakh) for his meritorious service and the respondents have not denied this fact. Admittedly, a Charge Memo was issued after a long lapse of 4 years and the charge is very flimsy for which initiating disciplinary proceedings after four years will vitiate the entire proceedings. The disciplinary proceedings against



the Government employee ought to be avoided not only in the interest of the Government employee but also in the interest of public and also in the interest of installing confidence in the minds of the Government employees. Since in the present case, the petitioner is a meritorious candidate, this enquiry would harass the petitioner and the punishment awarded is also on higher side and liable to be set aside.

11. Therefore, this Court set aside the impugned order and consequently the respondents are directed to pay increment on par with other similarly placed persons and pay the arrears. This excise shall be carried out within six weeks from the date of receipt of a copy of this order.

12. Hence, the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

jbr

**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 Secretary to Government,  
Home (SC) Department,  
Government of Tamil Nadu,  
Fort St.George,  
Chennai - 600 009.
- 2.The Director General of Police,  
Mylapore,  
Chennai 600 004.



3.The Superintendent of Police,  
Trichy District.

4.The Chairman,  
The Tamil Nadu Public Service Commission,  
Greens Road,  
Chennai - 600 006.

+1 CC to M/s.SPL GP ( SR-36970[F] dated 02/12/2021 )

+1 CC to M/s.V.JANAKIRAMULU, Advocate ( SR-37097[F] dated 02/12/2021 )

+1 CC to M/s.J.ANANDKUMAR, Advocate ( SR-36682[F] dated 01/12/2021 )

W.P. (MD) No.16373 of 2014  
30.11.2021

SJ(CO)  
KB(24.12.2021) 6P 8C