



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED: 12.03.2021

CORAM:

**THE HONOURABLE MR.JUSTICE M.S.RAMESH**

**W.P. (MD) No.20598 of 2019**

**and W.M.P. (MD) No.17240 of 2019**

**(Through Video Conference)**

WEB COPY

K.Saminathan

...Petitioner

Vs.

1. The Director General of Police,  
Tamil Nadu, Chennai
2. The Deputy Inspector General of Police,  
Dindigul Range, Dindigul.
3. The Superintendent of Police,  
Dindigul District, Dindigul.

... Respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records from the file of the 3<sup>rd</sup> respondent the impugned punishment order passed in PR.No.93/2014 dated 27.04.2015 and Appeal order on the file of 2<sup>nd</sup> respondent vide C.No.AP-16/A2/2015 dated 16.06.2015 and order in mercy petition on the file of 1<sup>st</sup> respondent vide Rc.No.005300/AP2(3)/2016 dated 03.01.2017 and quash the same as devoid of merits and consequently, direct the 2<sup>nd</sup> respondent to reinstate the petitioner into service with all service benefits.

For Petitioner : Mr.S.Raja Karthikeyan

For Respondents : Mr.P.Mahendran

Additional Government Pleader

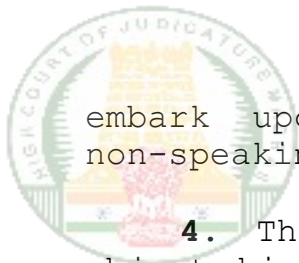
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**O R D E R**

Heard Mr.S.Raja Karthikeyan, learned counsel for the petitioner and Mr.P.Mahendran, learned Additional Government Pleader appearing for the respondents.

2. The petitioner herein, while serving as a Police Constable, was subjected to a departmental enquiry, pursuant to which the Disciplinary Authority had imposed the punishment of 'removal of service'. As against the same, the petitioner herein had preferred an appeal before the second respondent herein and the same was dismissed on 16.06.2015. The petitioner also preferred a mercy petition against the dismissal of the appeal before the first respondent, wherein the first respondent awarded the punishment of 'compulsory retirement from service' vide Rc.No.005300/AP2(3)/2016 dated 03.01.2017. Against the order passed in the mercy petition, present writ petition has been filed.

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 Additional Government Pleader, however would object his submission and state that the second respondent had in detail considered the findings of the Enquiry Officer and had come to a right conclusion. According to the learned Additional Government Pleader, the punishment imposed was proportionate to the charges and therefore, there was no infirmity in the decision of the respondents confirming the 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 16.06.2015, 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 27/04.2015 passed by the third respondent as well as the order dated 16.06.2015 passed by the second 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 within a period of three months from the date of receipt of a copy of this order. Since the matter is remanded to the Appellate Authority, the order passed by the second respondent in the mercy petition is set aside.

8. The Writ Petition stands allowed in the above terms. No costs. Consequently, connected W.M.P.(MD) No.17240 of 2019 is closed.

Sd/-

Assistant Registrar (P&A)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

**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.

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To

1. The Director General of Police,  
Tamil Nadu, Chennai
2. The Deputy Inspector General of Police,  
Dindigul Range, Dindigul.
3. The Superintendent of Police,  
Dindigul District, Dindigul.

+1 CC to M/s.SPL GP ( SR-11199[F] dated 15/03/2021 )

Order made in  
**W.P. (MD) No.20598 of 2019**

Dated:

**12.03.2021**

GS (28.04.2021) 3P 5C