



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.12.2021

CORAM:

THE HONOURABLE MRS.JUSTICE S. SRIMATHY

W.P (MD) No.16275 of 2015

WEB COPY

P. Alagar

:Petitioner

..VS..

1.The Director General of Police,
Santhome High Road,
Mylapore, Chennai -4.

2.The Deputy Inspector General of Police,
Madurai Range,
Madurai.

3.The Superintendent of Police,
Madurai District,
Madurai.

:Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of to issue a Writ in the nature of Writ of Certiorari to call for the records from the first respondent in his proceedings in Rc.No.23732 /AP.2/(3)/2014, dated 14.03.2015 and quash the same.

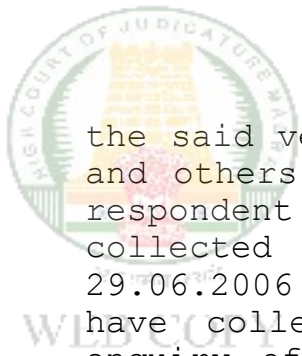
For Petitioner : Mr. R.Murugappan

For Respondents : Mr. S.K. Jeyaseelan
Government Advocate

O R D E R

The present Writ Petition is filed to quash impugned order passed by the first respondent in his proceedings in Rc. No. 23732 / AP.2 / (3) / 2014, dated 14.03.2015.

2. The petitioner was appointed as Driver in the Armed Reserved Police. The brief facts of the case as per the petitioner is that, while the petitioner was in Highway Patrolling duty on 06.04.2006 at around 12 hours along with Lady Sub Inspector viz., Banumathy and Head Constable by name Arumugam and Anbalagan, a paddy harvesting machine was passing by, wherein the said Head Constable Arumugam was asking the paddy harvesting machine driver to remove the vehicle since that was creating nuisance. The petitioner along with Sub Inspector of Police was resting near the trees since the lady Sub Inspector was not well and who was seven months pregnant. The respondents alleged that the petitioner was receiving bribe from



the said vehicle which are playing on the road. When the petitioner and others made courtesy call to the second respondent, the second respondent has reported to the control room that the petitioner has collected a bribe. Thereafter, the charge memo was issued on 29.06.2006 alleging the petitioner and the Head Constable Arumugam have collected bribe under the guise of vehicle checking. The enquiry officer was appointed to enquiry in the PR.No.92 of 2006 under Section 3 (a) of Police Control and Disciplinary Act and the charges were held proved.

3. The petitioner contention is that the Enquiry Officer is the officer who has placed the petitioner under suspension and the same enquiry officer has also given a report to the third respondent thereby alleged violation of principles of natural justice. The third respondent is the appointing authority has issued a show cause notice dated 04.07.2006. Thereafter, vide order dated 01.08.2007 the petitioner was imposed to the punishment of stoppage of increment for one year without cumulative effect. The petitioner preferred an appeal to the second respondent and the second respondent has dismissed the appeal on 02.07.2007, then, the petitioner filed the revision before the first respondent and the same was dismissed on 14.03.2015. Aggrieved over the present Writ Petition is filed.

4. The respondents have filed a counter affidavit stating the statement of Banumathy and the petitioner varied and the Head Constable Arumugam has never stated the Sub Inspector of Police was resting in the Jeep since there are in-consistency in the statements of the petitioner, the petitioner is liable to be punishment. The counter also states some other delinquency which happened in the year 2015. The counter also states the second respondent has seen the occurrence directly and instead of giving major punishment and instead of initiating criminal prosecution, the petitioner and others were sent to control room to take disciplinary action against them. Thereafter natural justice was granted to them and the punishment is proportionate to the delinquency.

5. Heard the learned counsel appearing on either side and perused the materials available on record.

6. On perusing the counter it is seen that the respondents have narrated about another charge and this nothing to do with the present delinquency. The petitioner contended that the second respondent who inspected the spot has initiated the disciplinary proceedings and he was appointed as Enquiry Officer and the same Enquiry officer has given a report to the third respondent on the basis of which disciplinary action was initiated. On perusing the materials on record, it is seen that the official who complaint about the petitioner was appointed as Enquiry Officer and who has given a report the charges are proved would clearly shows that the enquiry was not conducted as per the prescribed rules and it is clearly violation of principles of natural justice. Therefore, this Court holds it is clear violation of principles of natural justice.



In fact the second respondent has also agreed in his counter in paragraph 7 stating that the second respondent has directly seen the occurrence and instead of giving major punishment of remanding them before the Court of law the petitioner along with other sent to control room to take disciplinary action against them. If the second respondent seen occurrence, he should have seized the bribe received by Head Constable and ought to have preferred complaint from the driver and had examined the independent witness. This will also clearly prove the enquiry was not conducted properly.

7. When the Writ Petition was taken up for hearing, the respondents circulated G.O. Ms. No. 559 Home (Police VI) Department, dated 07.12.2021 wherein the State Government has announced on the floor of the Legislative Assembly cancelling of all the minor punishments to the police personnel. Since the Writ Petition is pending before this Court, G.O.Ms.No.559 Home (Police VI) Department, dated 07.12.2021 shall be applied and appropriate relief ought to be granted to the petitioner. Since the Writ Petition is pending which is continuation of the proceedings initiated by the officials the further action shall be dropped as far as the petitioner is concerned. Clause 3(1) states further action may be dropped in all punishment Rolls which have been initiated under Rule 3(a) of Tamil Nadu Police Subordinate Services (Discipline and Appeal) Rules, which are pending for passing orders as on 13.09.2021. Therefore, this Court directs the respondents to invoke the Rule 3(1) of the Tamil Nadu Police Subordinate Services (Discipline and Appeal) Rules and drop the further proceedings as far as the petitioner is concerned.

8. Therefore this Court set aside the impugned order passed by the first respondent and the consequential order shall be passed by the 1st respondent. The petitioner shall submit a representation along with this order and thereafter the first respondent shall pass orders in the light of the G.O.Ms.No.559 Home (Police VI) Department, dated 07.12.2021. Accordingly, the Writ petition is allowed. No costs.

Sd/-

Assistant Registrar (CS III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

trp

To

1.The Director General of Police,
Santhome High Road,
Mylapore,
Chennai -4.



2.The Deputy Inspector General of Police,
Madurai Range,
Madurai.

3.The Superintendent of Police,
Madurai District,
Madurai.

+1 CC to M/s.SPL GP (SR-39514[F] dated 20/12/2021)

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16.12.2021

MGJ(01.02.2022) 4P 5C