



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P. (MD) No.23113 of 2019

and W.M.P. (MD) Nos.19835 & 19836 of 2019

(Through Video Conference)

WEB COPY

K.Palani Kumar,
Superintendent of Police -II,
Crime against Women & Children,
Chennai

... Petitioner

Vs.

1.The Director General of Police,
Tamil Nadu,
Chennai 600 004

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

3. The Superintendent of Police,
Madurai District.

... 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 order of the 1st respondent in C.No.145805/AP.2(3)/2010 dated 20.01.2011 confirming the modified impugned order of the 2nd respondent in Rc.No.A3/Appeal.34/2000 dated 30.08.2000 modifying the impugned order of 3rd respondent in PR No.136/F1/1999 u/r 3(b) dated 14.05.2000 quash the same and consequently direct the respondents herein to disburse the monetary benefits withheld from the pay of the petitioner together with interest within a reasonable time as may be fixed by this Court.

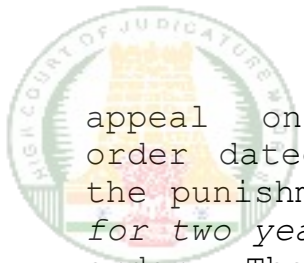
For Petitioner : Mr.Isaac Mohanlal,
Senior Counsel
For Mr.K.Muthu Ganesa Pandian

For Respondents : Mr.S.Dhayalan,
Government Advocate

O R D E R

Heard Mr.Isaac Mohanlal, learned Senior Counsel for the petitioner and Mr.S.Dhayalan, learned Government Advocate appearing for the respondents.

2. The petitioner herein, while serving as a Sub Inspector of Police, was subjected to a departmental enquiry, pursuant to which the Disciplinary Authority had imposed the punishment of '*reduction in time scale of pay by three stages for three years with cumulative effect*'. As against the same, the petitioner herein had preferred an



appeal on 20.06.2000 to the second respondent herein. Through the order dated 30.08.2000, the second respondent herein had modified the punishment to '*reduction in the time scale of pay by two stages for two years with cumulative effect*' from the date of the appellate order. The petitioner herein has challenged both the orders of punishment in the present writ petition.

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

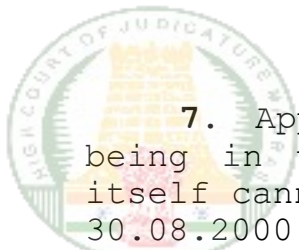
4. The learned Government Advocate, however would object his submission and state that the third respondent had in detail considered the findings of the Enquiry Officer and had come to a right conclusion. According to the learned Government Advocate, the punishment imposed was proportionate to the charges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

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 30.08.2000, 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 30.08.2000 passed by the second respondent as well as the order dated 20.01.2011 passed by the first 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 first respondent in the mercy petition is set aside.

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

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

sts

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 Director General of Police,
Tamil Nadu,
Chennai 600 004

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

3. The Superintendent of Police,
Madurai District.

+1 CC to M/s.SPL GP (SR-10584[F] dated 11/03/2021)

Order made in

W.P. (MD) No.23113 of 2019

RK(12.05.2021) 3P 5C