



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.10.2021

CORAM:

THE HONOURABLE MR.JUSTICE S.S. SUNDAR

W.P. (MD) .No.7030 of 2016

and

W.M.P (MD) Nos.5986 and 5987 of 2016

WEB COPY

P.Sivaganamoorthy

... Petitioner

Vs.

1.The Director General of Police,
Police Head Quarters,
Chennai.

2.The Commissioner of Police,
Tirunelveli City,
i/c Deputy Inspector General of Police,
Tirunelveli Range,
Tirunelveli.

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

... Respondents

Prayer:Writ Petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Certiorarified Mandamus, to call for the records on the file of the 1st respondent pertaining to its order bearing RC No.1872841 AP2(1) 2014, dated 23.11.2015 and the order of the 2nd respondent bearing C.No.C4/AP.47/14 dated 20.09.2014 and the order of the 3rd respondent bearing Na.Ka.No.F2/Tha.Pa.No.86/2014 dated 06.08.2014 and to quash the same and consequently, direct the respondent to promote the petitioner as personal assistant to the Superintendent of Police along with his immediate Junior within a time frame that may be stipulated by this Court.

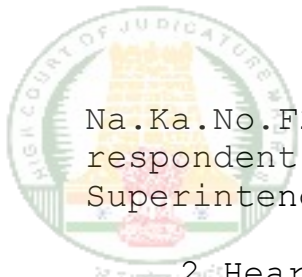
For Petitioner : Mr.C.Herold Singh

For Respondents : Mr.M.Lingadurai

Government Advocate

ORDER

This Writ Petition is filed for issuance of a writ of Certiorarified Mandamus to quash the order of the first respondent bearing RC No.1872841 AP2(1) 2014, dated 23.11.2015 and the order of the second respondent bearing C.No.C4/AP.47/14 dated 20.09.2014 and the order of the third respondent bearing



Na.Ka.No.F2/Tha.Pa.No.86/2014 dated 06.08.2014 and to direct the respondent to promote the petitioner as personal assistant to the Superintendant of Police along with his immediate Junior.

2. Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents.

3. It is the case of the petitioner that he is handicapped with 45% disability. While the petitioner was serving as Superintendant in the third respondent office, a charge memo was issued to the petitioner under Rule 17(a) of the Tamil Nadu Civil Service (Discipline and Appeal) Rules 1955. The charge against the petitioner was that he went to the Personal Assistant (Administration) Room and threatened in loud voice that the petitioner is a handicapped and he would make a complaint to the Handicapped Commission against the Personal Assistant (Accounts). The petitioner submitted a detailed explanation on 20.05.2014. Having not satisfied with the petitioner's explanation, the Additional Superintendant of Police conducted an enquiry and filed a report on 25.07.2014. The Enquiry Officer found that the charge against the petitioner stood proved. Thereafter, second show cause notice was issued to the petitioner on 15.07.2014 and after getting a reply from the petitioner, the third respondent by proceedings dated 06.08.2014 imposed the punishment of censure. Though the petitioner preferred an appeal before the second respondent, the second respondent confirmed the said order, by order dated 20.09.2014. Thereafter, the petitioner preferred an appeal before the first respondent, who in turn passed the impugned order dated 23.11.2015, confirming the order of the third respondent.

4. The learned counsel appearing for the petitioner submitted that the petitioner was not guilty of any charge and that the respondents did not consider the explanation offered by the petitioner to the charges. It is also stated that the misconduct referred to in the charge memo is a minor one and that the punishment of censure is not proper. Stating that the right of the petitioner for promotion is affected, due to the impugned order, the petitioner has filed the above writ challenging the order of punishment.

5. This Court, having regard to the nature of delinquency alleged against the petitioner, is unable to accept the submission of the learned counsel for the petitioner. The conduct of the petitioner threatening his immediate junior in the course of employment is not a minor thing. The procedure contemplated under rules was followed in this case. The punishment imposed on the petitioner is only censure, even though the respondents could have imposed a severe punishment. Hence, the contention of the learned



counsel appearing for the petitioner that the respondents unnecessarily imposed the punishment cannot be countenanced. Absolutely there is no irregularity, while awarding the punishment. The enquiry was fairly conducted and the enquiry report clearly shows that the charges against the petitioner were held proved. The order passed by the third respondent viz., the disciplinary authority clearly shows how the conduct of the petitioner was taken seriously, though the petitioner denied the charges. This Court is unable to find any motive that can be attributed against the officer who initiated the departmental proceedings by issuing charge memo. When the misconduct of the petitioner is a serious one, there cannot be any leniency after holding that the findings of the enquiry officer are based on materials. The petitioner may be handicapped and working in the third respondent office as Superintendant. However, the petitioner cannot claim any privilege as a handicapped person. The scope of the judicial review is limited and hence, this Court is of the view that there is no valid reason to interfere with the findings of the respondents.

6.As a result, this Writ Petition is devoid of merits and liable to be dismissed. Accordingly, this Writ Petition is dismissed. No costs. The learned counsel appearing for the petitioner submitted that the petitioner's promotion was delayed, on account of the punishment of censure. However, the learned Government Advocate appearing for the respondents produced a copy of the proceedings of the Superintendant of Police, dated 11.05.2017 before this Court and submitted that promotion was given to the petitioner as Personal Assistant (Administration). Hence, this Court is not inclined to pass any further direction. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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To

1.The Director General of Police,
Police Head Quarters, Chennai.

2.The Commissioner of Police,
Tirunelveli City,
i/c Deputy Inspector General of Police,
Tirunelveli Range, Tirunelveli.



3.The Superintendant of Police,
Tuticorin,
Tuticorin District.

+1 CC to M/s.S.C.HEROLD SINGH, Advocate (SR-32386[F] dated
25/10/2021)

+1 CC to M/s.SPL.GP (SR-32566[F] dated 26/10/2021)

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RK/JC (15/11/2021) 4P 6C