



WEB COPY

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 25.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.NO.15063 OF 2015

AND

M.P.NOS.1 TO 4 OF 2015

N.Suresh

...Petitioner

Vs

1. The Superintendent of Police,
Tiruvallur District at Tiruvallur.
2. Deputy Superintendent of Police,
Social Justice and Human Rights,
Tiruvallur.
3. Deputy Superintendent of Police,
Ponneri Sub Division,
Ponneri.
4. The Deputy Commissioner of Police,
Chennai City Armed Reserve,
Egmore, Chennai - 8.
5. Asst. Commissioner of Police,
Chennai City Armed Reserve,
Pudupet, Chennai - 2.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for records of the 1st respondent in P.R.No.54/2013 dated 29.10.2013 and consequently proceedings of the 2nd respondent in NR33 GR100 dated 17.05.2015 and quash the same and further direct the 1st respondent to implement the enquiry report dated 31.12.2014 made in P.R.No.54 of 2013 submitted by the 3rd respondent.



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For Petitioner : Mr.K.Venkataramani,
Senior Counsel
for Mr.S.Mahendran

For Respondents : Mr.C.Selvaraj,
Additional Government Pleader

ORDER

With the consent of both the parties, this writ petition is taken up for final disposal.

2. On an alleged charge of illicit intimacy between the petitioner and other Grade-II Police Constable, the charge memo dated 29.10.2013 under Rule 3(b) of the Tamil Nadu Police Subordinate Services (Discipline and Appeal) Rules, 1955 (hereinafter referred to as 'the Rules') was framed. After due enquiry, the charges were held to be as not proved. In this background, the second respondent herein had issued the impugned notice dated 17.05.2015, calling upon the petitioner to attend an oral enquiry in connection with the same charge. Aggrieved against the same, the present writ petition has been filed.

3. The learned Senior Counsel appearing for the petitioner submitted that Rule 3(b) of the said Rules does not empower the second respondent to reopen the enquiry or order for a fresh enquiry and therefore, the impugned notice cannot be sustained.

4. The learned Additional Government Pleader appearing for the respondents placed reliance on the averments in the counter affidavit and submitted that Chapter IV of the Police Disciplinary Proceedings provides for such reopening of the enquiry by remitting the same back.

5. Chapter IV of the Police Disciplinary Proceedings, as quoted by the respondents in their counter affidavit, was called upon to be produced before this Court, pursuant to which, the learned Additional Government Pleader had produced a copy of the handbook on disciplinary proceedings pertaining to the Tamil Nadu Civil Services (Discipline and Appeal) Rules. Apparently, the further enquiry, referred to in the handbook, is not a part of the rules governing the departmental enquiry in the Tamil Nadu Police Subordinate Services. Even otherwise, the commentaries in the handbook cannot be cited as a regulation for reopening the enquiry, in which the charges were held to be as not proved. Above all, Rule 3(b) of the Rules does not empower the authority to reopen the enquiry, As such, the very action of calling upon the petitioner to attend the oral enquiry, through the impugned notice, cannot be sustained.



6. In the result, the impugned order dated 29.10.2013 passed by the first respondent, as well as the impugned notice issued by the second respondent dated 17.05.2015, are quashed. Accordingly, the Writ Petition stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

hvk

To

1. The Superintendent of Police,
Tiruvallur District at Tiruvallur.
2. The Deputy Superintendent of Police,
Social Justice and Human Rights,
Tiruvallur.
3. The Deputy Superintendent of Police,
Ponneri Sub Division,
Ponneri.
4. The Deputy Commissioner of Police,
Chennai City Armed Reserve,
Egmore, Chennai - 8.
5. The Asst. Commissioner of Police,
Chennai City Armed Reserve,
Pudupet, Chennai - 2.

+1cc to Mr.S.Mahendran, Advocate, S.R.No.5051

+1cc to the Government Pleader, S.R.No.4903

W.P.No.15063 of 2015
and
M.P.Nos.1 to 4 of 2015

PCH(CO)
RLP(08/02/2022)