



W.P.No.3129 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.3129 of 2019

K.Palani Karthikeyan

...Petitioner

-Vs-

1.Deputy Commissioner of Police,
Kilpauk Police District,
Chennai City.

2.Joint Commissioner of Police,
East Zone, Chennai City.

3.Assistant Commissioner of Police,
Aynavaram Sub-Division,
Kilpauk, Chennai - 600 010.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, to call for the records relating to the impugned order passed by the first respondent herein in his proceedings P.R.No.25/PR/EZ.2018 dated 27.11.2018 and quash the same on the ground of jurisdiction, violation of rules and non-application of mind, together with all consequential monetary and service benefits.



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For Petitioner : Mr.G.Bala
for M/s.G.Bala and Daisy

For Respondents : Mr.S.J.Mohammed Sathik,
Government Advocate

ORDER

The petitioner herein, while serving as an Inspector of Police in Kanyakumar District, was proceeded under Rule 3(a) of the Tamil Nadu Police Subordinate Service (Discipline and Appeal) Rules. The charge levelled against him was that he had proceeded on sanctioned medical leave on 20.08.2018 without reporting in the office. Based on the levelled charge, an enquiry was conducted and the charge was held to be proved. Through the impugned order dated 27.11.2018, he was imposed with a punishment of postponement of next increment for a period of one year without cumulative effect. Challenging the said order, the present writ petition has been filed.

2. The learned counsel for the petitioner submitted that the levelled charge cannot be termed to be a misconduct, since the medical leave was sanctioned by the respondents themselves. Furthermore, he submitted that in view of the punishment imposed, the petitioner's name was deferred in the



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panel drawn for Deputy Superintendent of Police, which has caused serious prejudice to him.

3. On the other hand, the learned Government Advocate appearing for the respondents placed reliance on the averments in the counter affidavit and submitted that, on six earlier occasions, the petitioner was subjected to disciplinary proceedings and for five of the delinquencies, he was imposed with punishments. In view of the same, the case of the petitioner herein does not deserve consideration.

4. I have given careful consideration to the submissions made by the respective counsels.

5. As rightly pointed out by the learned counsel for the petitioner, the respondents themselves have sanctioned the medical leave to the petitioner with effect from 20.08.2018. While on this sanctioned medical leave, he was also subjected to the Medical Board by the respondents themselves. The charge itself admits that the petitioner herein was on sanctioned medical leave. While that being so, this Court is unable to comprehend as to how such



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a sanctioned medical leave would amount to misconduct. Curiously, the respondents have chosen to proceed with the charge memo by rejecting the petitioner's explanation and have conducted an enquiry, in which the charge was held to be proved.

6. When the medical leave has been sanctioned by the respondents, the charge itself cannot be construed to be a misconduct and the consequential action initiated pursuant to the levelled charges cannot be sustained.

7. The learned counsel for the petitioner also pointed out that during the currency of punishment, a panel was drawn for the post of Deputy Superintendent of Police, in which his name was deferred. If that be so, the petitioner would be entitled for inclusion of his name in the promotional panel, in view of the decision of this Court to set aside the order of punishment.

8. In the light of the above findings, the impugned order dated 27.11.2018 is quashed. Consequently, there shall be a direction to the second respondent herein to pass appropriate orders, sanctioning all the service and



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monetary benefits that may have been imposed pursuant to the impugned order of punishment. In case any promotional panel for the post of Deputy Superintendent of Police was drawn during the currency of punishment pursuant to passing of the impugned order, the second respondent shall include the name of the petitioner in the said panel and if he is otherwise qualified, shall issue promotional orders and place him above his immediate junior. Such orders shall be passed by the second respondent within a period of six weeks from the date of receipt of a copy of this order.

9. Accordingly, the Writ Petition stands allowed. No costs.

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Index:Yes/No
Speaking order/Non-speaking order
hvk



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M.S.RAMESH,J.

hvk

To

- 1.The Deputy Commissioner of Police,
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