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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.03.2022

CORAM

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.34053 of 2012

and

M.P.No.1 of 2014

J.Raju,
Inspector of Police, (Retired)
D-8A, Parsan Nagar,
36, V.G.P.Salai,
West Saidapet,
Chennai - 600 015.

...Petitioner

Vs.

1. The Secretary to the Government,
Home (Pol-IV) Department,
Fort St.George,
Chennai - 600 009.
2. Deputy Inspector General of Police,
Vellore Range, Vellore.
3. Deputy Inspector General of Police,
Salem Range,
Salem.
4. The Superintendent of Police,
Salem District, Salem.

...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 first respondent in G.O.(2D) No.207 dated 21.04.2010 as confirming the findings of the 3rd respondent in P.R.No.11 of 1999 to quash the same.

For Petitioner : Ms.D.Sujatha

For Respondents : Mr.Veda Bagath Singh
Special Government Pleader

ORDER

While serving as Inspector of Police, the petitioner was levelled with certain charges of dereliction of duty, through a charge-memo dated 15.02.1999. Pursuant to the enquiry, the



charges were also held to be proved. In the meantime, the petitioner had reached the age of superannuation on 30.09.2005 and he was permitted to retire without prejudice to the disciplinary action pending against him. On consideration of the Enquiry Report, the Government had imposed the punishment of cut in pension at the rate of Rs.50/- per month for a period of one year, for the proven charges. The impugned G.O. (2D) No. 207, Home (Police IV) Department, dated 21.04.2010, is under challenge in the present writ petition.

2. While the learned counsel for the petitioner submitted that the petitioner's explanations have not been properly considered by the Government, the learned Special Government Pleader submitted that the views of the Tamil Nadu Public Service Commission was obtained in this matter and in consideration of such views, the punishment was imposed. Therefore, there is no infirmity in the impugned order.

*** "3. Rule 3(b) of the Tamil Nadu Police Subordinate Service (Discipline and Appeal) Rules, 1955 provides that whenever a punishment of this nature is proposed to be imposed on a member of the service, the delinquent should be extended with reasonable opportunity of making any representations and on receipt of such a representation, the same shall be taken into consideration before imposing a penalty."**

"4. In the instant case, there is absolutely no consideration of the petitioner's explanation. Though the Government had extracted the charges and explanations on the delinquent officer, in the ultimate portion of the order, they had chosen to simply refer to the views of the Tamil Nadu Service Commission and by observing that they have decided to accept the views, the punishment has been imposed. In the absence of any consideration of the petitioner's representations, the order itself is in violation of Rule 3(b) the Tamil Nadu Police Subordinate Service (Discipline and Appeal) Rules, and therefore, the consequential punishment cannot be sustained."

5. In the light of the above findings, the impugned order dated 21.04.2010, is quashed and accordingly, the writ petition stands allowed. No costs. Connected Miscellaneous Petition is closed.

6. In view of the quashing of the impugned punishment order, there shall be a direction to the first respondent herein to pass appropriate orders, for the purpose of refunding the amount of



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pension, deducted from the petitioner's monthly pension and forward the same to the concerned Pension Authorities, within a period of six weeks from the date of receipt of a copy of this order.

Sd/-

Assistant Registrar (CS-IX)
dated:12.04.2022

// True Copy //

*** Paragraphs 3 & 4 Corrected as
per order of this Court 28.04.2022**

Sd/-

**Assistant Registrar (CS-IX)
dated:29.04.2022**

Sub Assistant Registrar

Pns

To

1. The Secretary to the Government,
Home (Pol-IV) Department,
Fort St.George,
Chennai - 600 009.
2. The Deputy Inspector General of Police,
Vellore Range, Vellore.
3. The Deputy Inspector General of Police,
Salem Range,
Salem.
4. The Superintendent of Police,
Salem District, Salem.

*** Corrected order
To be substituted
to the order already
despatched on
20.04.2022**

+1cc to Special Government Pleader, SR.No.20630

+1cc to M/s.D.Sujatha, Advocate SR.No.29548

W.P.No.34053 of 2012

SKM(CO)
CB(13/04/2022)
SU(29/04/2022)