

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.06.2022

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.NO.10103 OF 2014

AND

M.P.NO.2 OF 2014

K.Prabakar

... Petitioner

Vs.

The Principal Secretary to Government,
Home (SC) Department,
Secretariat, Chennai - 600 009.

... Respondent

Prayer : Writ Petition filed Under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, calling for all relevant records relating to the impugned Government order in G.O.(2D).No.255, Secretary Home (SC) Department dated 02.07.2013, issued by the respondent herein, to quash the same as arbitrary, improper, unjust, thereby directing the respondent herein to exonerate the punishment of "Censure" imposed on petitioner and consequently to provide all the consequential service benefits due for the petitioner.

For Petitioner : Mr.A.Kalaivanan
For Mr.P.K.Rajesh Praveen Kumar

For Respondent : M/s.R.L.Karthika
Government Advocate

ORDER

The writ petition is filed, challenging the Government Order issued in G.O.(2D).No.255, Secretary Home (SC) Department dated 02.07.2013, imposing the punishment of 'Censure'.

2. The writ petitioner was directly recruited as Deputy Superintendent of Police (Category-1) in Tamil Nadu Police Service. The writ petitioner, at the time of filing the writ

petition, was holding the post of Additional Superintendent of Police. While the petitioner was serving as Deputy Superintendent of Police, a charge memo was served on 15.11.2007 in T.D.P.Rc.A1/221/2007 before the Tribunal for disciplinary proceedings. The charge against the writ petitioner was that while he was working as Joint Sub-Registrar in the office of the Sub-Registrar, Virugambakkam, Chennai, he actuated by dishonest motive and abused his official position and authority. The second charge was that the petitioner failed to supervise the work of his subordinates in issuing correct Encumbrance certificate. The investigation was conducted by the Vigilance and Anti-Corruption Department and therefore, the case was referred to the Tribunal for disciplinary proceedings. The Tribunal, for disciplinary proceedings, conducted an enquiry and submitted a report on 28.09.2010 and the petitioner defended his case by submitting further representation on the report submitted by the Tribunal for disciplinary proceedings. Based on the report, the respondent issued final orders in G.O.(2D). No.255, Secretary Home (SC) Department dated 02.07.2013, imposing the punishment of 'Censure'.

3. The learned counsel for the petitioner states that the allegations are relating to an incident in the Registration Department. Thereafter, the petitioner was selected as Deputy Superintendent of Police and joined in Tamil Nadu Police Service. No doubt, the petitioner was serving initially in the Registration Department and subsequently, he was appointed in the Police Department. In respect of the similar issues of missing and wrong entries in the Encumbrance certificates, the charges had been dropped and some other officials were exonerated. However, the petitioner alone was treated differently and therefore, based on the exoneration granted to the other similarly placed officials, the punishment in the present case is also to be set aside.

4. This Court is of the considered opinion that the case was taken up by the Department of Vigilance and Anti-Corruption. Therefore, it was referred for enquiry before the Tribunal for disciplinary proceedings. The Tribunal conducted an elaborate enquiry by affording opportunity to all the delinquent officials. Thereafter, based on the report of the Tribunal, the disciplinary authority passed final orders, imposing the penalty of 'Censure'.

5. Considering the lapses, the authority competent had taken a decision to impose the minor penalty. Reference made by the petitioner is not in the same case or the officials exonerated are not co-delinquents in the present occurrence. The disciplinary cases are to be decided based on the independent

facts and circumstances. No doubt, certain principles laid down and the rules in force are to be followed. But, the facts and the charges are to be dealt with independently for conducting an enquiry and for passing final orders. In the present case, the Tribunal for disciplinary proceedings, independently conducted an enquiry and submitted a report and based on the report, punishment of 'Censure' was imposed on the petitioner for the charges of supervisory lapses and regarding certain missing and wrong entries in the Encumbrance certificates. Subsequently, the petitioner was directly recruited as Deputy Superintendent of Police in the Tamil Nadu Police Service and the said factum would not be a ground for seeking exoneration from the order of punishment imposed in the impugned order.

6. For all these reasons, this Court do not find any acceptable reason for the purpose of interfering with the punishment of 'Censure' and consequently, the writ petition stands dismissed. No costs. Connected miscellaneous petition is closed.

Sd/-
Deputy Registrar (CS)

//True Copy//

Sub Assistant Registrar

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To

The Principal Secretary to Government,
Home (SC) Department,
Secretariat, Chennai - 600 009.

+1cc to M/s.P.K.Rajesh Praveen Kumar, Advocate, S.R.No.35955

W.P.No.10103 of 2014

EV(CO)
RLP(17/06/2022)