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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.03.2022

CORAM:

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P.No.16784 of 2020

and

W.M.P.No.20796 of 2020

C.Babu Ravichandran

... Petitioner

vs.

1. Director General of Police,  
Head of the Police Force,  
Tamil Nadu,  
Kamarajar Salai,  
Chennai - 600 004.

2. Additional Director General of Police,  
(Law and Order),  
O/o, Director General of Police,  
Kamarajar Salai,  
Chennai - 600 004.

3. Deputy Inspector General of Police,  
Vellore Range,  
Vellore.

4. Superintendent of Police,  
Vellore Region,  
Vellore.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining the impugned orders (i) RC.No.162764/CON.II(2)/2019 dated 03.03.2020 on the file of the 1<sup>st</sup> respondent; (ii) RC.No.162764/CON.II(2)/2019 dated 18.11.2019, on the file of the 2<sup>nd</sup> respondent and (iii) Proceedings in C.No.B2/P.R.11/2019 R.O dated 19.09.2019 on the file of the 3<sup>rd</sup> respondent and quash the same; consequentially direct the respondents to reinstate the petitioner into service with all attendant benefits and continuity of service within a reasonable period fixed by this Court.

For Petitioner : Mr.A.Asif Basha

For Respondents: Mr.M.Bindran

Additional Government Pleader



## O R D E R

By consent of both parties, this Writ Petition is taken up for final disposal at the admission stage itself.

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2. According to the writ petitioner, while he was working as Inspector of Police, Latheri Circle in Vellore District, under the 3rd and 4th respondents, the 3rd respondent has framed a charge memo under Rule 3(b) of Tamil Nadu Police Subordinate Service (Discipline & Appeal) Rules, 1955 on the following alleged charges:

(i) Reprehensible conduct in having failed to supervise the progress of the Panamadangi Crime No.140/2016 u/s. 147, 294(b), 323, 506(i) IPC registered by Tr.Chinnathambi, Sub Inspector of Police, Panamadangi PS, Dated 12.11.2016 against accused Tr.V.Sampath S/o. Venkatsan, No.2/51B, Pallakollai Village, Panamadangi Post, Katpadi Taluk, Vellore District and others as Circle Inspector of Police, Latheri Circle, Vellore District and thereby violated the rule No.179 and 180 of Police Standing Order, Volume-I New Edition.

(ii) Criminal misconduct in having demanded and acceptance of money of Rs.8,000/- from accused Tr.V.Sampath S/o.Venkatesan, No.2/51B, Pallakollai Village, Panamadangi Post, Katpadi Taluk, Vellore District as bribe on 24.07.2017 under the pretext of court expenses for earlier disposal of the criminal case pending against him Crime No.140/2016 u/s.147, 294(b), 323, 506(i) IPC and involved in Vigilance and Anti-Corruption, Vellore Detachment Crime No.06/2017 thus spoiled the image of the Police Department in the midst of the General Public and thereby violated the rule 20(1) of Tamil Nadu Government Servant Conduct Rules, 1973". Thereafter, an Enquiry Officer was appointed and after conducting a detailed enquiry, he submitted a report to the 3rd respondent viz., Deputy Inspector General of Police. Based on the enquiry officer report, the 3rd respondent has passed a final order on 19.09.2019, by imposing punishment of dismissal from service. Challenging the aforesaid punishment order, the petitioner has filed an appeal before the 2nd respondent on 15.10.2019 and the same was rejected by the Appellate Authority confirming the punishment order passed by the 3rd respondent. Thus, the writ petitioner has filed this instant writ petition before this Court, by raising a ground that both the appellate authorities have not considered independently the punishment order imposed on the petitioner.

3. The learned counsel appearing for the petitioner would submit that the appellate authority has not dealt with the appeal in the light of the Rule 6(1) of the Tamil Nadu Police Subordinate Service (Discipline and Appeal) Rules, 1955 and has



also not considered the explanation of the petitioner or the grounds raised in the appeal. Therefore, both the appellate authorities have miserably failed to consider the petitioner's explanation as well as the grounds raised by the petitioner before the authority concerned. Thus, the impugned order is liable to be quashed.

4. The learned Additional Government Pleader appearing for the respondents would submit that after considering the enquiry report and based on the materials and evidence, the aforesaid impugned punishment order has been imposed by the appellate authority and therefore, the aforesaid order does not warrant any interference by this Court.

5. The crux of the issue involved in the present writ petition is whether the original authority as well as appellate authority has gone into the relevant records and considered independently while passing the impugned order.

6. At this juncture, the learned counsel appearing for the petitioner would reply upon the decision of this Court in the case of C.Devendhiran Vs. The Deputy Inspector General of Police, Villupuram Range (W.P.No. 150 of 2013) reported in 2020 (2) WLR 332, wherein this Court has already held that if there is any cryptic or non-speaking order, the same is liable to be set aside. Therefore, the appellate authority cannot simply reproduce the order of the Enquiry Officer and it has to independently apply its mind and have discussion based on the materials and pass final orders.

7. It is also useful to rely upon the order passed by this Court [DKKJ - myself] in the case of C.Devendhiran Vs. The Deputy Inspector General of Police, Villupuram Range (W.P.No. 150 of 2013) reported in 2020 (2) WLR 332, wherein I had an occasion to deal with the same issue in detail and held that the order passed by the appellate authority is a cryptic/non-speaking order. The relevant portion of the order is extracted hereunder:

"16. In view of the decisions cited supra and Rule 6 (1) of Tamil Nadu Police Subordinate (Discipline & Appeal) Rules, it is clear that the appellate authority is the final fact finding authority and he is expected to assess the evidences available on record by due application of mind and also record the reasons even though not elaborately, but indicating as to how the appellate authority has satisfied himself with the reasons given by the disciplinary authority. When Rule 6(1) of Tamil Nadu Police Subordinate Service (Discipline & Appeal)



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Rules mandates that the appellate authority should consider all those materials, in the instant case, no such finding has been given by the appellate authority except simply saying that he has perused some documents and came to the conclusion that the punishment awarded by the 1st respondent is not an excessive and rejected the same.

17. Considering the facts and circumstances of the case and also the decisions rendered by the Hon'ble Supreme Court and this Court cited supra, this Court with no hesitation, has come to the conclusion that the second respondent / appellate authority has passed a cryptic order / non-speaking order without considering the issues that were raised by the petitioner in his Appeal. As rightly pointed out by the learned senior counsel for the petitioner, the order of the appellate authority/ 2nd respondent is not in conformity with the rule 6(1) of TNPSS (D&A) Rules.

18. In fine, the impugned order in RC. No.047950/AP1 (2)/2000, dated 03.07.2010 passed by the second respondent in respect of P.R No.67/ 2009 is quashed and the matter is remitted to the second respondent to consider afresh and to pass order thereon, on merits and in accordance with law, within a period of twelve (12) weeks from the date of receipt of the copy of this order.

In this case, the aforesaid impugned order has been passed by the 3rd respondents without following the procedure as contemplated under the provisions of the rules. Therefore, this Court has no hesitation to quash the impugned proceedings passed by the 3rd respondent.

8. In fine, the impugned orders (i) RC.No.162764/CON.II(2)/2019 dated 03.03.2020 passed by the 1<sup>st</sup> respondent; (ii) RC.No.162764/CON.II(2)/2019 dated 18.11.2019, passed by the 2<sup>nd</sup> respondent and (iii) Proceedings in C.No.B2/P.R.11/2019 R.O dated 19.09.2019 passed by the 3<sup>rd</sup> respondent are hereby quashed and the matter is remitted to the 3rd respondent to consider afresh and to pass reasoned order thereon, as contemplated under Rule 6(1) of the Tamil Nadu Police Subordinate Service (Discipline and Appeal) Rules, on merits and in accordance with law, within a period of twelve (12) weeks from the date of receipt of the copy of this order. Till such time, the petitioner is not entitled for reinstatement into service.



9. With the above observations and directions, this Writ Petition is allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

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Sd/-  
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. Director General of Police,  
Head of the Police Force,  
Tamil Nadu,  
Kamarajar Salai,  
Chennai - 600 004.
2. Additional Director General of Police,  
(Law and Order),  
O/o, Director General of Police,  
Kamarajar Salai,  
Chennai - 600 004.
3. Deputy Inspector General of Police,  
Vellore Range,  
Vellore.
4. Superintendent of Police,  
Vellore Region,  
Vellore.

+2cc to Mr.A.Asif Basha, Advocate, S.R.No.21938  
+1cc to the Government Pleader, S.R.No.22253

W.P.No.16784 of 2020 and  
W.M.P No.20796 of 2020

MT(CO)  
CT 21/04/2022