

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.06.2022

CORAM :

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.NO.4807 OF 2014

M.Subramanian

...Petitioner

Vs.

- 1.The Deputy Inspector General of Police  
Dindigul Range, Dindigul.
- 2.The Additional Director General of Police  
(Law & Order), Chennai 4.
- 3.The Director General of Police  
Chennai 4.
- 4.The Secretary to Government  
Home (Pol.IV) Department  
Fort St George, Chennai 9.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records of the respondents in connection with the impugned orders passed by the 1<sup>st</sup> respondent in PR No.21/A2/2010 dated 17.06.2010, and by the 2<sup>nd</sup> respondent in RC No.209494/Con.I(2)/2007 dated 16.07.2010 and by the 3<sup>rd</sup> respondent in RC No.235947/ Conf.I(2)/2010 dated 19.01.2011 and by the 4<sup>th</sup> respondent in GO 2D No.555 Home (Pol.IV) Dept. dated 23.09.2013 and quash the same.

For Petitioner : Mr.K.Venkataramani  
Senior Advocate  
For Mr.M.Muthappan

For Respondents : Mr.L.S.M.Hasam Fizal  
[R1 to R4] Additional Government Pleader

ORDER

The order of reduction in pay by one stage for one year without cumulative effect is under challenge in the present writ petition.

2. The petitioner was directly recruited as Sub-Inspector of Police and joined on 28.09.1987. He was promoted to the post of Inspector of Police on 19.06.1998. On 27.11.2001, the petitioner was placed under suspension for having involved in a Criminal Case registered by Vigilance and Anti-Corruption Department with an allegation of accumulation of disproportionate wealth. After investigation, certain illegalities in the purchase and disposal of the properties by the petitioner either in his name or in the name of his wife or in the name of his relatives were found and a charge memo under Rule 3 (b) of Tamil Nadu Police Subordinate Service (Discipline and Appeal) Rules was issued on 11.02.2009. Seven Charges were framed and the petitioner submitted his written explanations, denying the charges on 14.01.2010. The Enquiry was ordered and the Enquiry Officer conducted an enquiry had submitted his report, holding that the Charges 1, 6 and 7 are proved and rest of the Charges 2 to 5 are not proved. The report was submitted on 15.02.2010. The petitioner submitted his further objections on the enquiry report vide explanations dated 10.05.2010. On 17.06.2010, the 1<sup>st</sup> respondent accepted the findings of the Enquiry Officer in respect of the Charges 1, 6 and 7 and for the proven charges, imposed the punishment of reduction in rank from Inspector of Police to Sub-Inspector of Police for three years. The petitioner preferred an appeal on 25.06.2010. The Appellate Authority disposed of the appeal on 16.07.2010, setting aside the punishment and imposed the modified punishment of reduction in pay by two stages for two years without cumulative effect. The petitioner further preferred a review on 30.09.2010 and the said review petition was disposed by the 3<sup>rd</sup> respondent on 19.01.2011, further modified with the punishment into "reduction in pay by one stage for one year without cumulative effect". The Mercy Petition filed by the petitioner on 14.03.2011, was rejected by the 4<sup>th</sup> respondent 23.09.2013. Thus, the petitioner is constrained to move the present writ petition.

3. The learned Senior Counsel appearing on behalf of the petitioner mainly contended that all the charges are relating to the disproportionate assets. The Charges 2 to 5 were not proved. Therefore, the findings in respect of the Charges 1, 6 and 7 cannot be sustained at all. The charges are interrelated and when the Charges 2 to 5 relating to dealing of properties are held not proved, while so, there is no reason, whatsoever to hold the Charges 1, 6 and 7 are held proved. The Charge 1 relates to L.I.C Policies. The L.I.C premium is being paid by many police officers and the payment of premium will not be informed. That apart, the said amount has been exposed in the Income Tax returns every year and under those circumstances, the petitioner thought that no separate permission is required under Rule 9(2)(1) of the Tamil Nadu Subordinate Police Officers Conduct Rules, 1964.

4. Charge 6 is regarding the purchase of immovable property from the brother-in-law of the petitioner and got it registered in the name of his wife Tmt.S.Kasthuri. The petitioner has defended the charges by stating that he has not purchased the property as levelled in the charge memo. The transaction was also informed by him and he has not violated the Conduct Rules. Regarding Charge 7 about acquiring illegal movable and immovable assets in the name of the writ petitioner and in the name of his wife to the tune of Rs.11,34,888/-. The petitioner has stated that certain amounts were not properly accounted for and were not considered by the Vigilance and Anti-Corruption Officers. The petitioner has given the statement to elaborate his defence.

5. The learned Senior Counsel relying on the said explanations, made a submission that when the Charge 2 relates to movable assets and Charge 3 relates to immovable property and Charge 4 regarding construction of two storey building and Charge 5 regarding transactions of borrowing money from relatives are not held proved. The Charges 1, 6 and 7 cannot be held proved as the findings in this regard by Enquiry Officer is self-contradictory.

6. The learned Senior Counsel for the petitioner is of an opinion that the punishment imposed originally was no doubt modified. However, the Charges 2 to 5 are dropped and therefore, the Charges 1, 6 and 7 cannot be held proved and on that ground, the order of modified punishment issued by the authority is to be set aside.

7. The learned Additional Government Pleader objected the said contentions by stating that the original punishment of Rank reduction for three years was modified into that of reduction in the time scale of pay by two stages for two years, which shall not operate his future increments was issued by the Additional Director General of Police / Head Quarters (i/c) Law and Order, Chennai in proceedings dated 16.07.2010. The Review Petition filed by the writ petitioner was considered by the Director General of Police / 3<sup>rd</sup> respondent, who in turn, further reduced the punishment to "Reduction in the time scale of pay by one stage for one year without cumulative effect".

8. The proved charges against the writ petitioner were relating to immovable properties also. Thus, the punishment imposed on the petitioner cannot be construed as excessive. Regarding Charge 1, the learned Additional Government Pleader contended that the Government in letter dated 28.09.1989 issued by the Personnel and Administrative Reforms Department have clarified that "A member of the service should submit a report to the Government, while taking insurance policy if annual

premium of it exceeds Rs.5,000/- and the transaction comes within the limit of Conduct Rules". Thus, the act of the petitioner having paid Rs.88,798/- in the check period is a clean violation of Rules 9(2) of the Tamil Nadu Subordinate Police Officers Conduct Rules, 1964. Regarding Charge 6, the Enquiry Officer has rightly discussed that a sum of Rs.30,000/- was paid by the petitioner to his wife for the purchase of the land. The transaction of giving Rs.30,000/- from his Life Insurance Corporation Policy should have been informed to the competent prescribed authority. Again, it is to be noted that the petitioner contributed his source of income for the purchase of the 0.95 acre of land, it is in his responsibility to give notice to the prescribed authority under Rule 9(1) (a) of the Tamil Nadu Subordinate Police Officers Conduct Rules, 1964. But the petitioner failed to do so. Therefore, the Enquiry Officer arrived a conclusion that count No.6 was held proved. Thus, there is no infirmity. Regarding count No.7 also, the Enquiry Officer had rightly considered all the points put forth by the petitioner in his explanation and had given detailed reason for holding that the count No.7 has proved. The Enquiry Officer had rejected the plea of the petitioner on the following grounds:

a) The income through the agriculture land includes the expenditure for the crops may be Rs.1,35,000/- per year and total income for four years may be Rs.6,40,000/- only.

b) The statements of PWs 1 and 2 regarding refund of "Moi" amount of Rs.2,80,000/- to the petitioner are only an afterthought and in order to support the petitioner, who is relative of him. Therefore, the income of Rs.2,80,000/- towards refund of "Moi" amount, by the relatives and Rs.60,000/- gifted by the mother-in-law to petitioner cannot be accounted for. Above all, since the Income Tax Returns were filed after the detailed investigation and inquiry by Vigilance and Anti-Corruption, the version of the petition was rejected.

Hence, the findings of the Inquiry Officer in holding counts 1, 6 and 7 of the charges as proved are just and there is no infirmity in it."

9. Originally, the Disciplinary Authority imposed the punishment of Rank reduction for three years from Inspector of Police to Sub-Inspector of Police and the said punishment was modified by the Appellate Authority into that of reduction in time scale of pay by two stages for two years, which shall not operate to postpone his future increments. Pertinently, the Reviewing Authority / 3<sup>rd</sup> respondent further modified the punishment to that of "reduction in the time scale of pay by one stage for one year without cumulative effect".

10. The Disciplinary Authority had followed the procedures as contemplated under the Tamil Nadu Police Subordinate Service (Discipline and Appeal) Rules. The petitioner was afforded with opportunities as contemplated and he availed the opportunities and defended his case. Each charge was dealt with by the Enquiry Officer with reference to the allegations and materials furnished by the presenting officer and also considering the defence of the charged official. Regarding the proved Charges 1, 6 and 7, the Disciplinary Authority imposed the punishment of rank reduction for three years from Inspector of Police to Sub-Inspector of Police. The Appellate Authority found that the said punishment is excessive and accordingly, modified the punishment. The Reviewing Authority further modified the punishment and imposed the minor penalty on the writ petitioner.

11. When the Disciplinary Authority, Appellate Authority and Reviewing Authority had considered the facts and circumstances and the findings of the Enquiry Officer independently and reduced the punishments, there is no reason for the High Court to interfere with the finding of the fact by all these three Competent Authorities. Finding of facts by all the three Authorities and modification of punishments deserve no further interference and more so, while exercising the power of judicial review in a writ proceedings. In the event of adjudication of facts by the Original Authority and the Appellate Authority and in this case also by the Reviewing Authority, High Court need not further go into the allegations and the defence taken by the charged official.

12. However, in the present case, the authorities have independently considered the charges, findings of the Enquiry Officer and also the quantum of punishment imposed by the Original Authority. Accordingly, the Appellate Authority modified the punishment and thereafter, the Reviewing Authority further modified the punishment to that of minor penalty. This being the factum, this Court do not find any infirmity in respect of the punishment finally imposed on the writ petitioner.

13. Accordingly, the Writ Petition fails and stands dismissed. No costs.

Sd/-

Assistant Registrar(CCC)

// True Copy //

Sub Assistant Registrar

Jeni/Kak

To

- 1.The Deputy Inspector General of Police  
Dindigul Range, Dindigul.
- 2.The Additional Director General of Police  
(Law & Order), Chennai 4.
- 3.The Director General of Police  
Chennai 4.
- 4.The Secretary to Government  
Home (Pol.IV) Department  
Fort St George, Chennai 9.

+1cc to the Government Pleader Sr.No.41959

W.P.No.4807 of 2014

EV(CO)  
RVM(18/07/2022)