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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21-06-2022

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WP No.18100 of 2014

R.Murali

.. Petitioner

vs.

1. The Director General of Police,
Chennai - 4.
2. The Superintendent of Police,
District Police Office,
Thiruvarur.
3. The Deputy Superintendent of Police,
Thiruvarur Sub-Division,
Thiruvarur District.

.. Respondents

Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari, calling for the records relating to the impugned order of punishment passed by the second respondent herein in his proceedings Na.Ka.No.K2/Tha.Pa.14/2010 under Rule 3(a) dated 23.04.2010, imposing the punishment of postponement of increment for one year without cumulative effect and quash the same.

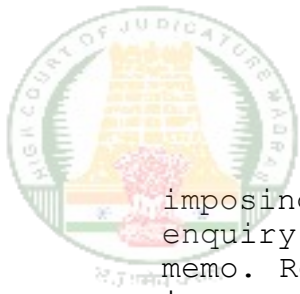
For Petitioner : Mr.G.Bala for
M/s.G.Bala and Daisy.

For Respondents : Ms.S.Anitha,
Special Government Pleader.

O R D E R

The order of minor punishment issued in proceedings dated 23.04.2010, is under challenge in the present writ petition.

2. The learned counsel for the petitioner made a submission that the order of punishment was issued under Rule 3 (a) of the Tamil Nadu Police Subordinate Service (Discipline and Appeal Rules) 1955, imposing minor penalty based on the enquiry report and the said enquiry report was not communicated to the writ petitioner.



3. It is contended that 3(a) charges are framed for imposing minor penalty. The Disciplinary Authority conducted an enquiry with reference to the allegations set out in the charge memo. Relying on the said enquiry, the punishment of stoppage of increment for one year without cumulative effect was imposed. However, the enquiry report has not been served to the writ petitioner. Thus the punishment is to be set aside.

4. The learned Special Government Pleader appearing on behalf of the respondents opposed the said contentions raised on behalf of the petitioner by stating that the allegation against the writ petitioner was that on 10.12.2009 the writ petitioner was instructed to report for duty at Kottur Police Station on 11.12.2009 at 08.00 hours for a sensitive bandhobast duty, but he failed to attend the same in time and he acted in an indisciplined manner with the Deputy Superintendent of Police, Thiruthuraipoondi. Thus, the Deputy Superintendent of Police had initiated departmental disciplinary proceedings against the writ petitioner in P.R.No.14 of 2010 under Rule 3(a) of the Tamil Nadu Police Subordinate Service (Discipline and Appeal) Rules, 1955 for the delinquencies committed by the writ petitioner.

5. The respondents have stated that furnishing of the copy of the enquiry report before passing the final orders is not required in case of minor charges framed under Rule 3(a) of the Discipline and Appeal Rules. The procedures to be followed for inflicting minor punishment under Rule 3(a) is summary proceedings and therefore, the enquiry if at all conducted for the purpose of culling out the truth need not be communicated to the delinquent as the said procedure has not been contemplated under the Discipline and Appeal Rules itself.

6. The learned counsel for the petitioner made a submission that the principles of natural justice require communication of the enquiry report to the charged official.

7. This Court is of the considered opinion that the distinct procedures to be followed by the Disciplinary Authority in respect of 3(a) charges and 3(b) charges are to be considered in such circumstances. When 3(a) charges are framed for imposing minor penalty and the procedure contemplated is to issue the charge memo under Rule 3(a) and after obtaining explanation from the charged official, final order may be passed by the Disciplinary Authority. Therefore, any procedure of enquiry conducted in between by the Disciplinary Authority is only for the purpose of ascertaining the truth regarding the allegation raised against the delinquent official and not for the purpose of communicate the same and to receive further explanation from the charged official. If such a procedure which is not contemplated under Rules is permitted to be adopted, then every



3(a) charges would be converted as 3(b) charges, wherein such elaborate procedures are to be followed. Thus, the verification of documents, ascertaining the facts for the purpose of considering the merits by the Disciplinary Authority should not be construed as a procedure contemplated under the Rules or such enquiry or ascertaining the facts would not provide any additional right to the charged official for the purpose of following the procedures, which all are not contemplated under the Rules itself.

8. When the Rule contemplates the summary procedure to issue the charge memo, receive the explanation and pass final orders, the same is to be considered as right to the delinquent employee and the other enquiries made by the Department to cull out the truth would not confer any right for the delinquent employee to seek the copy of the enquiry report or otherwise from the Disciplinary Authority.

9. In the present case, the learned counsel for the petitioner made a submission that the writ petitioner during the pendency of the writ petition filed a review petition before the Higher Authority. The writ petition itself has been filed after a lapse of four years from the date of passing of the impugned punishment on 23.04.2010. Under these circumstances, the petitioner is at liberty to pursue the review petition filed before the Higher Authority. However, in respect of punishment, this Court is not inclined to interfere and consequently, the writ petition stands disposed of. However, there shall be no order as to costs.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

Svn

To

1. The Director General of Police,
Chennai - 4.
2. The Superintendent of Police,
District Police Office,
Thiruvarur.



3. The Deputy Superintendent of Police,
Thiruvarur Sub-Division,
Thiruvarur District.

+1cc to M/s.G.Bala and Daisy, Advocate, S.R.No.37911

+1cc to the Government Pleader, S.R.No.38842

WP 18100 of 2014

SSI (CO)
CT/01/07/2022