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W.P.No.28899 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.09.2022

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THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.28899 of 2014

D. Baskar

... Petitioner

Vs.

1.The Additional Director General of Police/
Inspector General of Prisons,
Chennai – 600 008.

2.The Deputy Inspector General of Prisons,
Coimbatore Circle,
Coimbatore – 641 018.

3.The Superintendent,
Central Prison,
Coimbatore – 641 018.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order of the first respondent in Proceedings No.2893/W-1/2013 dated 09.10.2013 confirming the order passed by the second respondent in Proceedings No.1788/Mu.Oo/2012 dated 30.10.2012 and the order passed by the third respondent in Proceedings No.4561/Po.4/2011 dated 24.05.2012 and quash the said orders and direct the respondents to reinstate the petitioner in service with all attendant



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For Petitioner : Mr.K.S. Govinda Prasad

For Respondents : M/s.Rajarajeswari,
Government Advocate

ORDER

The petitioner, while working as a Grade – II Warder in the Prison Department, was levelled with charges of unauthorised absence and with the further allegation that he had forcibly extracted a sum of Rs.7,500/- from a released prisoner, under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, was subjected to a domestic inquiry. The charges having been held to be proved, was succeeded by the punishment of removal from service passed by the third respondent herein through proceedings dated 24.05.2012. The challenge to the order of punishment by way of an appeal was rejected by the second respondent on 30.10.2012. So also, the further revision before the first respondent herein was rejected on 09.10.2020. Challenging the order of punishment, the present Writ Petition has been filed.

2. Among the other grounds raised by the petitioner, the learned



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counsel predominantly stressed upon the ground that the order in appeal of the second respondent dated 30.10.2012 is a non-speaking order. A perusal of this order of the second respondent would reveal that the Appellate Authority had recorded the opportunities being extended to the petitioner during the course of inquiry and has also taken into account that the petitioner had not participated in the inquiry in spite of such opportunities. The opportunity to render his further explanation pursuant to the inquiry report, was also not availed by him and on these grounds alone, the appeal came to be rejected. A copy of the petitioner's Appeal Petition dated 07.06.2012 is also produced before this Court, wherein, it is seen that several grounds have been raised by him, challenging his order of punishment.

3. Even though the petitioner may not have participated in the inquiry, there is a duty cast on the Appellate Authority to address each and every ground raised by the petitioner in his Appeal Petition. The fact that the petitioner had neither participated in the inquiry nor rendered his further explanation to the proven charges, will not empower the Appellate Authority to reject the Appeal Petition, without addressing the grounds raised before him. If that be so, such an order would be deemed to be a non-speaking



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order, which is unsustainable in the eyes of law.

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4. In this background, I am of the view that the second respondent herein may be directed to reconsider the petitioner's Appeal Petition afresh. In view of such a decision, the consequential order dated 09.10.2013 passed by the first respondent herein on the petitioner's revision petition, also deserves to be set aside.

5. In the result, the original order of punishment dated 24.05.2012 passed by the third respondent herein does not require any interference. However, the order of the second respondent dated 30.10.2012, as well as the order of the first respondent dated 09.10.2013 are set aside. Consequently, the matter is remitted back to the second respondent herein, who shall consider the petitioner's Appeal Petition dated 07.06.2012 on his own merits and after extending due opportunity to the petitioner herein, final orders shall be passed atleast within a period of three (3) weeks from the date of receipt of a copy of this order.

6. With the above direction, the Writ Petition stands partly allowed.

No costs.

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Speaking/Non-speaking
Index : Yes/No



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M.S.RAMESH,J.

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