



W.P.(MD)No.4319 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.09.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.4319 of 2020

and

W.M.P(MD)Nos.3636 & 3637 of 2020

T.Sannasi

... Petitioner

Vs

1.The Director General of Police,
Office of the Director General of Police,
Mylapore,
Chennai.

2.The Commissioner of Police,
Trichy City,
Trichy.

3.The Deputy Commissioner of Police (Law and Order),
Trichy City,
Trichy.

4.The Inspector of Police,
Seemanalapadai,
Trichy City AR.

... 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 pertaining to the impugned order issued by the third respondent in PR.No. 68/H1/2006 dated 08-10-2007 and the consequential impugned order issued by



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the second respondent in issued proceedings Na.Ka.No.H1/PR 68/2006 dated 26-01-2008 and the consequential impugned order issued first respondent in R.C.000954/AP.IV/(1)/2019 dated 22-03-2019 and quash the same and consequently direct the respondents herein to restore the annul increment to the petitioner within the time stipulated by this Court.

For Petitioner : Mr.J.Vishnu

For Respondents : Mr.R.Suresh Kumar
Additional Government Pleader

ORDER

Heard the learned counsel on either side.

2. The writ petitioner joined the Police Department as Grade II Police Constable at Armed Reserve in Trichy during the year 1999. The petitioner was selected for A Grade and posted in Armed Reserve Police at Seemanalapadai, Trichy City AR. He was made a Guard Commander along with 4 other Police Constable and tasked with guarding one Life Convict, by name, Basheer Ahmed who had undergone treatment for kidney ailment at Trichy Prison Hospital. The said Life Convict escaped from the Police custody at about 05.20 a.m on 07.09.2002. He was, of course, captured on the very next day. Since escape of a Life Convict is a serious matter, charge memo was issued on 07.09.2006. The petitioner was also suspended from service. The petitioner offered his explanation on 08.09.2006. Enquiry was conducted and enquiry



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report held that the charge was proved. The disciplinary authority vide order dated 08.10.2007 imposed punishment of postponement of increment for two years with cumulative effect. Aggrieved by the same, the petitioner filed an appeal before the Commissioner of Police, Trichy City. The appeal was dismissed on 26.01.2008 as time barred. The petitioner after several years filed a mercy petition before the first respondent and the said mercy petition was also dismissed on 22.03.2019. Challenging the same, this writ petition came to be filed.

3. The learned counsel appearing for the writ petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition. He submitted that the writ petitioner was not responsible for turn duty during the relevant time and therefore, the very framing of charge is incorrect. The respondents filed a detailed counter affidavit and the learned Additional Government Pleader appearing for the respondents took me through its averments.

4. The primary contention of the learned Additional Government Pleader is that the petitioner / Guard Commander was responsible for ensuring that the Life Convict did not escape from custody. Totally, there were 5 Police Constables including the writ petitioner. Passport was issued in common for all the five persons. Therefore, for the escape of the Life Convict all of them will



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have to share the blame. He submitted that the punishment imposed on the petitioner is rather proportionate and that it does not call for any interference.

5. I carefully considered the rival contentions and went through the materials on record.

6. The charge against the writ petitioner is that he was responsible for the escape of the convict on 07.09.2006 from Trichy, Hospital prison. A reading of the charge indicates that the convict escaped at about 05.20 a.m on 07.09.2006. During the relevant time, PC 2239 Ravi was guard in-charge along with one Siva Kumar. The writ petitioner was to take charge of the guard duty at 06.00 p.m. Even according to charge, it was PC 2239 Ravi who was guarding the life convict. It is incorrect to pass on blame on the petitioner. The petitioner, during the relevant time, was very much available in the campus. He had not gone elsewhere. It is true that the petitioner was a guard commander but the petitioner cannot be expect to keep vigil for 24 full hours. I went through the letter submitted by Thiru.Ravi. He himself admits that the life convict told him that he wanted to answer the call of nature and went to the toilet. Since Ravi was having some stomach ailment, he did not leave the bed. Since the life convict did not return, Ravi went to the toilet and noticed that the convict had escaped.



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7. In these circumstances, I am of the view that the writ petitioner was not at all at fault. Only if the writ petitioner had committed the act of delinquency or was negligent, he could have been dealt with departmentally. The life convict escaped when Ravi and Siva Kumar were on guard duty. The writ petitioner could not have been issued with the charge memo. The very factual foundation for initiating disciplinary action is non-existent. In this view of the matter, the order impugned in the writ petition is quashed. This writ petition is allowed. Consequently, connected miscellaneous petitions are closed. No costs.

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Index : Yes / No
Internet : Yes/ No
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