



W.P.(MD).No.3419 of 2019

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.12.2022

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.3419 of 2019

M.Sekar (HC2936)

... Petitioner

Vs.

1.The Government of Tamil Nadu,
Represented by its Secretary to Home Department,
Fort St.George,
Chennai-600 009.

2.The Director General of Police,
Kamarajar Salai,
Mylapore,
Chennai-600 004.

3.The Deputy Commissioner of Police,
Law & Order,
Trichy City.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the punishment order in C.No.C1/21602/2001 dated 29.07.2002 passed by the 3rd respondent and which was confirmed by 2nd respondent in Rc.No.21887/API (3)/2003 dated 05.01.2004, again which was confirmed by the 1st respondent in G.O.(2D) No.779 dated 20.12.2013 and



W.P.(MD).No.3419 of 2019

G.O.No.1454 dated 17.12.2018, quash the same and consequently direct the 2nd and 3rd respondents to provide the arrears of salary to the punishment period and revise the service seniority and give the promotion for the post of Head Constable from 2009 to the petitioner.

For Petitioner : Mr.M.Natarajan

For Respondents : Mr.N.Muthuvijayan
Special Government Pleader

ORDER

The present writ petition has been filed challenging an order passed by the 3rd respondent and which was confirmed by 2nd respondent in Rc.No. 21887/AP.I (3)/2003 dated 05.01.2004, again which was confirmed by the 1st respondent in G.O.(2D) No.779 dated 20.12.2013 and G.O.No.1454 dated 17.12.2018, quash the same and consequently direct the 2nd and 3rd respondents to provide the arrears of salary to the punishment period and revise the service seniority and give the promotion for the post of Head Constable from 2009 to the petitioner.

2. The petitioner was appointed as Gr.II PC on 16.06.1993 and was promoted to various posts. The Charge Memo under 3(b) in P.S.No.73 of 2001, dated 08.08.2001 was issued against the petitioner for the alleged allegation



W.P.(MD).No.3419 of 2019

that the petitioner along with his colleague has let the prisoners to escape while the prisoners were in their legal custody. After conducting an enquiry, the respondents have imposed punishment of reduction in the time scale of pay by two stage, for one year with cumulative effect vide order, dated 29.07.2002. The petitioner preferred an appeal and the same was rejected vide order, dated 05.01.2004. In mercy petition, the 1st respondent rejected the same vide order, dated 20.12.2013. Aggrieved over the same, the present writ petition has been filed.

3. The respondents have filed a counter stating that the petitioner has let the prisoners to escape, which will clearly indicate the dereliction of duty on the part of the petitioner. The contentions raised by the petitioners were considered. Since the petitioner had not submitted any convincing explanation and the real happenings in connection with the charges levelled against him before the enquiry officer, the punishment has been imposed. The appellate authority and the revisional authority have considered the same and passed an order. Since the petitioner has not raised any legally sustainable grounds and the respondents prayed to dismiss the writ petition.



W.P.(MD).No.3419 of 2019

WEB COPY

4. Heard Mr.M.Natarajan, learned counsel for the petitioner and Mr.N.Muthuvijayan, learned Special Government Pleader for the respondents.

5. When this petition was listed on earlier occasion, this Court directed the Special Government Pleader appearing for the respondents to produce the guideline issued by the respondents for handling the prisoners. He has circulated the Standing Orders, which is extracted hereunder:

Tamil Nadu Police Standing Orders are well settled on this score viz the prisoners shall be classified into two categories namely (HRP) High Risk Prisoners

For a single prisoner	4 Police Constables
For two prisoners	4 Police Constables
For more than two and not more than four prisoners	4 Police Constables
For more than four and not more than six prisoners	6 Police Constables
For more than six and not more than ten prisoners	8 Police Constables



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W.P.(MD).No.3419 of 2019

(LRP) Low Risk Prisoners

For a single prisoner	2 Police Constables
For two prisoners	2 Police Constables
For more than two and not more than four prisoners	2 Police Constables
For more than four and not more than six prisoners	3 Police Constables
For more than six and not more than ten prisoners	1 Head Constable & 4 Police Constables

A female warder shall whenever necessary accompany a female high risk prisoners and low risk prisoners instead of the Police Constables. [Paragraph 463 (1) Chapter xxx {part-1}] Page 139 of the Madras Prison and Reformatory Manual Vol.II.”

6. On scrutiny, it is seen that the petitioner and his colleague were assigned duty to take care of 4 prisoners. One prisoner was accused under Terrorist and Disruptive Activities (Prevention) Act. Other 2 prisoners would come under High Risk category, since they were accused under Section 302 of I.P.C and attempted to rape etc., The 4th prisoner would come under the Low Risk category. On perusing the standing orders, two prisoners who comes under



W.P.(MD).No.3419 of 2019

high risk category that is accused under Section 302 of I.P.C and attempt to rape, for those 2 prisoners, 4 constables ought to have been assigned as per the standing orders. However, the respondents have assigned only 2 constables for 4 accused persons. Therefore, the basis of the charge itself is against the standing order and guidelines of the respondents. Therefore, this Court is inclined to interfere with the punishment. The punishment imposed on the petitioner is quashed and the respondents are directed to give consequential effect to this order within a period of eight (8) weeks from the date of receipt of a copy of this order.

7. With the above said observations, this Writ Petition stands allowed. No costs.

21.12.2022

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No

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W.P.(MD).No.3419 of 2019

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W.P.(MD).No.3419 of 2019

S.SRIMATHY, J.

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W.P.(MD).No.3419 of 2019

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