



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 20.04.2022

PRONOUNCED ON : 02.06.2022

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P. (MD) No. 7136 of 2018

and

WMP (MD) No. 6872 of 2018

WEB COPY

R.Palanikumar

... Petitioner

-Vs-

1.The Director General of Police,
O/o, The Director General of Police Office,
Dr.Radhakrishnan Salai, Mylapore,
Chennai-4.

2.The Deputy Inspector General of Police,
O/o. The Deputy Inspector General of Police Office,
Madurai Division, Madurai Region,
Madurai District.

3.The Superintendent of Police,
O/o., District Police Office,
Surveyor Colony, Madurai,
Madurai District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records relating to the impugned punishment order passed by the third respondent in his proceedings in C.No.F4/PR.No.105/2013 dated 18.11.2013 and the consequential confirmation order passed by the second respondent in his proceedings in C.No.A4/0916/AP-05/2014 dated 17.05.2014 and the consequential confirmation order passed by the first respondent in his proceedings in Rc.No.114587/AP.II(3)/2017 dated 12.09.2017 and quash the same as illegal.

For Petitioner : Mr.Niranjana S.Kumar

For Respondents : M/s.D.Farjana Ghouse
Special Government Pleader

ORDER

This writ petition is filed to quash the impugned order, dated 18.11.2013 and the consequential confirmation order passed by the second respondent, dated 17.05.2014 and the consequential confirmation passed by the first respondent, dated 12.09.2017.



2. The brief facts are as follows:

(i) The petitioner was working as a Grade-I Police Constable at South Gate Police Station (L&O), Madurai. Initially the petitioner was appointed as Grade-II Police constable at Veerapuram Battalion-III, Chennai on 28.02.2002. Thereafter, the petitioner was transferred to various place. On 25.02.2011, when the petitioner was in Highway Patrol Duty along with one Mrs. Tamilselvi, Women Sub Inspector of Police and One Mr. Ayyaponnu, Driver cum Head Constable, a surprise check was conducted by the Vigilance & Anti-Corruption authorities at the Ring Road Patrol vehicle bearing Registration No.TN-59-G-0530 at Valayapatti Vilakku Ring Road, Madurai. The authorities found a sum of Rs.1090/- kept in the bag nearby driver seat belonged to Mrs. Tamilselvi. Women sub Inspector of Police. They were immediately brought to the office of DVAC at Madurai and prepared a statement and obtained signatures without allowing the delinquents to read the said statement.

(ii) Immediately on completion of DVAC check, the petitioner was placed under suspension on 26.02.2011 and subsequently, the said suspension order was revoked on 03.08.2011. After a delay of 143 days, a case was registered against the petitioner and other co-delinquents on 19.07.2011, by arraying the petitioner as A3 in Crime No.6 of 2011 under Section 102 of Cr.P.C. The respondent issued a charge memo under Rule 3(a) of the TNPSS (D&A) Rules 1955 in PR No.105 of 2013 dated 09.07.2013. The charge against the petitioner is that on 24.02.2011 during the surprise check, the delinquent officer along with Tamilselvi and Ayyaponnu were found in possession of unaccounted amount of Rs.1110/-. When questioned about the possession, the delinquent was not able to account the same properly and thereby the delinquent had failed to maintain absolute integrity and devotion to duty in public service.

(iii) On receipt of the said charge memo, the petitioner submitted detailed explanation to the third respondent refuting the charge levelled against the petitioner. Not satisfying with the explanation, the third respondent passed the impugned proceedings, dated 18.11.2013 imposed with a punishment of postponement of next increment for a period of two years, which shall not postpone his future increments. Aggrieved over the punishment order passed by the third respondent, the petitioner preferred an appeal to the second respondent on 18.12.2013 and the same was also rejected by the second respondent vide proceedings, dated 17.05.2014. Thereafter, the petitioner preferred a mercy petition to the first respondent on 20.07.2017 and the same was also rejected. In the meanwhile, a criminal case registered against the petitioner and other two co-delinquents were also closed by the Special Court of Prevention of Corruption Act Cases, Madurai, by an order, dated 11.10.2014.



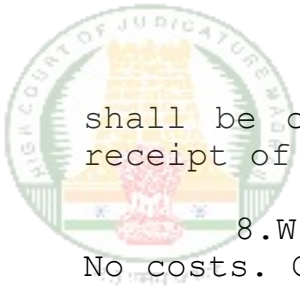
3. The contention of the petitioner is that the petitioner was deputed to Ring Road Mobile Duty along with Mrs. Tamilselvi, Sub Inspector of Police and Mr. Ayyaponnu, Driver cum Head Constable. The delinquent conducted a vehicle check at about 18.00 hours nearby Valayapatty junction. While doing so, the delinquent had waylaid a lorry bearing Registration No.TNW-1755, Leyland lorry and the Cleaner of the vehicle stepped up from lorry and showed the documents. On a careful perusal of the records, it was revealed that the records were intact. Hence, the delinquent had directed the vehicle to go away on their route. The DVAC official check the delinquent vehicles as well as their bags. The petitioner was carrying a sum of Rs.2510/- and the same was returned and the said Tamilselvi was having Rs.350/- and Ayyapannu was having Rs.300/-. The said amount was also returned. However, the amount of Rs.1090/- which was kept in a bag along with Sub Inspector of Police was seized.

4.The further contention of the petitioner is that the bag does not belong to the petitioner. Therefore, the punishment of postponement of increment for two years is illegal, since the bag does not belong to the petitioner. Moreover, the criminal case also ended into acquittal. The claim of the petitioner is that the impugned punishment is affecting his promotional aspects and hence, he prayed to set aside the punishment, which was confirmed in appeal proceedings and the revisional proceedings.

5.Heard Mr. Niranjana S. Kumar, the learned counsel appearing for the petitioner and M/s. D. Farjana Ghouse, the learned Special Government Pleader appearing for the respondents and perused the records

6. It is seen from the records that the disciplinary proceedings are initiated under Section 3(a) of TNPSS (D&A) Rules. The Government has come forward to consider the proceedings, which are initiated under Section 3(a) of TNPSS (D&A) Rules and which is affecting the promotional aspects of the delinquent and passed G.O. (MS) No.559 Home (Police VI) Department dated 07.12.2021. In the said Government Order, under clause 3, it has been stated that the authority shall reconsider the punishment, if the disciplinary proceedings are initiated under 3(a) of TNPSS (D&A) Rules, which is affecting the future promotional aspects. Therefore, this Court is of the considered view that the matter ought to be remitted back to the authorities for reconsideration.

7.In view of the above, the impugned order dated 18.11.2013 and the consequential confirmation orders, dated 17.05.2014 and 12.09.2017 are set aside and the matter is remitted back to the respondents for fresh consideration. The respondents are directed to consider the petitioner's case in the light of G.O. (MS) No.559, Home (Police VI) Department, dated 07.12.2021. The said exercise



shall be completed within a period of six weeks from the date of receipt of a copy of this order.

8. With the above direction, this writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-

Vacation Officer/
Assistant Registrar(CO)

// True Copy //

/06/2022

Sub Assistant Registrar(CS)

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To

1. The Director General of Police,
O/o., The Director General of Police Office,
Dr. Radhakrishnan Salai, Mylapore,
Chennai-4.
2. The Deputy Inspector General of Police,
O/o., The Deputy Inspector General of Police Office,
Madurai Division, Madurai Region,
Madurai District.
3. The Superintendent of Police,
O/o., District Police Office,
Surveyor Colony, Madurai,
Madurai District.

+1 CC to M/s.SPL.GP (SR-24285[F] dated 03/06/2022)

+1 CC to M/s.NIRANJAN S. KUMAR, Advocate (SR-24451[F] dated 07/06/2022)

order made in
W.P. (MD)No.7136 of 2018
Dated: 02.06.2022

CK(CO)
TR(22.06.2022) 4P 6C