



W.P(MD)No.1904 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.09.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P(MD).No.1904 of 2017

and

W.M.P(MD).No.1565 of 2017

M.Senthilkumar,

: Petitioner

Vs

1. The Director General Of Police,
Tamil Nadu Police Department,
Mylapore,
Chennai 600 004.

2. The Additional Director General Of Police,
Law & Order,
Mylapore,
Chennai 600 004.

3. The Deputy Inspector General Of Police,
Trichy Range, Trichy.

4. The Superintendent of Police,
Karur District, Karur.

: 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



W.P(MD)No.1904 of 2017

records on the file of the 3rd respondent in connection with the impugned order of punishment passed by him in his Proceedings in C.No.B2/PR 1/14 dated 03.03.2014 as well as the impugned modified punishment order passed by the 2nd respondent in his proceedings in Rc.No.085873/Con.V (2)/2014 dated 21.03.2015 and the impugned rejection order passed by the 1st respondent in his proceedings in Rc.No.095334/Con.V(2)/2015, dated 14.06.2016 and quash all as illegal and ultravires and consequently, direct the respondents to promote the petitioner as Inspector of Police for the year 2013-14 along with his batch mates with all service and monetary benefits within the time limit that may be stipulated by this Court.

For Petitioner : Mr.G.Thalaimutharasu
For Respondents : Mrs.D.Farjana Ghoushia
Special Government Pleader

ORDER

This writ petition had been filed seeking to quash the punishment order dated 03.03.2014, to modify the punishment order dated 21.03.2015 and rejection of further appeal vide order dated 14.06.2016 and consequently to direct the respondents to promote the petitioner as Inspector of Police for the year 2013-14 along with his batch mates with all service and monetary benefits.



W.P(MD)No.1904 of 2017

2. The brief facts of the case are that the petitioner was inducted in the Uniformed Service by way of direct recruitment for the post of Sub Inspector of Police on 28.05.2001 and posted at Thathiengarpet Police Station. At present, the petitioner is officiating at Chinthamani Patty Police Station. The petitioner has received more than 40 rewards for his unblemished service. The petitioner had discharged his service in the post of Sub Inspector of Police in the Civil Supplies CID Wing at Nagapattinam during the period 17.11.2011 to 16.07.2012. Thereafter, he was transferred to Mayanur Police Station.

3. While the petitioner was serving at Karur Town police Station, a charge memo under Section 3 (b) was issued by the Additional Director General of Police in P.R.No.6/2013, dated 12.04.2013 for two counts of charge. The charge is that while the petitioner was serving in Nagapattinam CSCID Unit on 23.12.2011 along with police team went to Vedaraniyam and raided the house of one Kumar and took the ration rice and kerosene as if it was utilised by him for the hotel run by him and thereby, forcibly took him in the police jeep and demanded illegal gratification of Rs.15,000/-, thereby, the petitioner brought disrespect to the Uniformed Services. The second charge is that on 20.04.2012 along with the police team raided the house and hotel of



W.P(MD)No.1904 of 2017

one Vetrivel and seized the domestic gas cylinder and 20 KG of Ration Rice and without taking the said accused to the CSCID Unit, but had taken to Kodiyakarai Road and the threatened him that he will foist a case as if the cylinder and rice was utilised for hotel purpose and in order to avoid the criminal case, he had demanded a hefty gratification. In these circumstances, the general public had assembled in the spot and due to the agitation, the seized rice and the cylinder was handed over to the said Vetrivel and that the said Vetrivel was dropped in the vehicle, thereby, the petitioner caused disrespect to the Uniformed Services.

4. The contention of the petitioner is that the said raid was not conducted under the petitioner's leadership but under the leadership of the District Superintendent of Police namely, A.Harikrishnan and the Inspector of Police, namely Radhakrishnan, CSCID. But for the reasons best known to the higher officials, the said District Superintendent of Police has drawn a preliminary report on 21.12.2012 for the above said incident and has recommended disciplinary proceedings against the petitioner and the said Radhakrishnan. Based on the preliminary deposition of Vetrivel, who specifically stated that only out of frustration and pressure given by his



W.P(MD)No.1904 of 2017

Sangam, he has given such a complaint and he has not paid any cash. But in spite of the same, the District Superintendent of Police has recommended to take action. Hence the charge memo was framed as against the petitioner, one Durairaj, Head Constable, Thirugnanam, SSI and Arulanandu, Police Constable. Though there were no evidence about the allegations, the report has not suggested action against the said Radhakrishnan, but suggested to take action only against the petitioner and three others, which is absolutely discriminatory and a selective action. Based on the charge memo, an enquiry was conducted and in the said enquiry only one charge is held to be proved and the other charge was not held to be proved. The petitioner submitted a detailed explanation denying all charges in spite of the same, without evidence the third respondent imposed a punishment of postpone of next increment for two years, which shall operate to postpone his future increment also. The said punishment is a non-speaking order and there is no application of mind while imposing such punishment. It is based only on hypothesis. The Enquiry Officer has held that the charges were proved and the same cannot be sustained in law. The said order passed by the third respondent though received by the fourth respondent on 12.03.2014, it was served on the petitioner only on 09.05.2014 but at the same time, the impugned order was



W.P(MD)No.1904 of 2017

served to the other co-accused persons on 26.03.2014 itself. The petitioner preferred a detailed appeal before the second respondent on 02.05.2014, denying the unjust punishment imposed on the petitioner as well as on the delay in completing the disciplinary proceedings and also prayed to include the petitioner's name in the seniority list for promotion to the post of Inspector of Police for the year 2013-14. The second respondent, without considering the same in its entirety, in a mechanical fashion, has modified the punishment, as postponement of next increment for two years which will not operate to postpone his future increment vide proceedings, dated 21.03.2015. The Appellate authority has not applied the mind before modifying the punishment. Hence the petitioner filed a mercy petition to exonerate the petitioner from charges. However, relying on the preliminary statement given on 19.12.2012 i.e., before issuing the charge-memo, the punishment was confirmed without passing a speaking order. Aggrieved over the same, this petition had been filed.

5. The contention of the petitioner is that even without admitting the guilt, the fourth respondent has passed the punishment order, which was received through the third respondent. The increment was due on 01.04.2014



W.P(MD)No.1904 of 2017

and the same would have been lapsed by 01.04.2016 because of the late implementation of the punishment, which was served on the petitioner only on 09.05.2014. The petitioner's claim of promotion to the post of Inspector of Police is curtailed till 01.04.2017 and the petitioner would be eligible for promotion in the panel 2017-18. Hence there is belated implementation of the punishment and the petitioner prayed to quash the impugned order.

6. The respondents filed a counter stating that the petitioner along with his Police Team went to Vedharanyam and took ration rice and kerosene from the house of the said Kumar, forcibly. The District Superintendent of Police was not accommodated by a Team at all. After hearing the above incident, the District Superintendent of Police has nominated the Enquiry Officer, who is the appropriate authority. Therefore, the claim of the petitioner is that the District Superintendent of Police accompanied the raid by police Team is denied in the counter. The respondents have denied that the punishment order was belatedly served to the petitioner and this would be evident from the letter, wherein, it has been requested to serve the final order on the police personnel and implement the order and send the acknowledgement and final order for further action. The respondent office had immediately served the



W.P(MD)No.1904 of 2017

final order on 09.05.2014. Hence there is no delay as alleged by the petitioner. Originally, the petitioner had served in Nagapattanam. The petitioner along with his Police Team took kerosene and ration card from the said Kumar. The second incident is that the petitioner and his team raided the house and hotel of the said Vetrivel and threatened him that they will register a false case. These two allegations are serious in nature and unbecoming of uniformed service. The petitioner has spoiled the name of the Police Department in the public. Therefore, disciplinary proceedings were initiated taking into fact the relevant document and the submissions made by the said Kumar and Vetrivel. Thereafter, proportionate punishment was imposed after proper enquiry. The petitioner has not submitted any legally sustainable plea to interfere with the punishment order and hence the respondents prayed to dismiss the petition.

7. Heard Mr.G.Thalaimutharasu, the learned Counsel appearing for the petitioner and Mrs.D.Farjana Ghoushia, the learned Special Government Pleader appearing for the respondents and perused the records.

8. On a perusal of records, it is seen that the petitioner was charged on



W.P(MD)No.1904 of 2017

two counts. In enquiry, the first charge is not proved, but the second charge was held to be proved. As far as the second charges is concerned the petitioner raided two places and demanded illegal gratification. After raid, the accused person was taken in a jeep, but without taking the accused to “Unit”, the petitioner and others had taken the accused to a different place. It is seen from the record the charge of illegal gratification was denied by the complainant himself. Therefore, this Court is of the considered opinion that the illegal gratification charge cannot be levelled against the petitioner. As far as the raiding charge is concerned, the allegation against the petitioner is that the petitioner raided without any authority, but the claim of the petitioner is based on the orders of the higher officials the raid was conducted and the raid forms a part of the duty of the petitioner. Therefore, this Court is of the considered opinion that the raiding cannot be considered as misconduct. Now the only charge that ought to be raised is that the petitioner has taken the accused person to a difference place instead of bringing the accused to the CBCID Unit. However, the petitioner declined that he has not taken the accused to a different place.

9. The only charge against the petitioner is that the petitioner has taken



W.P(MD)No.1904 of 2017

the accused to some other place. It is seen that this being a single incident and therefore, this Court is of the considered opinion that the punishment is disproportionate and hence this Court is inclined to modify the punishment. Therefore, the punishment of one year incentive proportionate is reduced to three months.

10. The next contention of the petitioner is that based on this punishment, his promotion was not granted. Therefore, the respondents are directed to consider the petitioner's promotion and fix his seniority based on his batch-mates and grant promotion on the same day when his batch-mates were promoted and the same shall be considered within a period of eight weeks from the date of receipt of the copy of the order.

11. With the above directions, this writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

21.09.2022

Index : Yes / No
Internet : Yes/ No
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10/12



W.P(MD)No.1904 of 2017

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W.P(MD)No.1904 of 2017

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W.P(MD).No.1904 of 2017

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