



W.P.No.24959 of 2010

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.12.2023

CORAM

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.P.No.24959 of 2010

R.Jayagurunathan

... Petitioner

Vs

1.The Joint Commissioner of Police,
North Zone, Chennai City-II.

2.The Commissioner of Police,
Greater Chennai,
Egmore, Chennai – 8.

3.The Director General of Police,
Mylapore, Chennai – 4.

... Respondents

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the records of the respondents in connection with the impugned orders passed by the respondents 1 to 3 in PR No.66/PRN(2)/2005 dated 20.07.2006, Appeal No.17/PRN(2)/2006 dated 11.10.2006; and RC No.17794/AP.3(3)/2009 dated 31.07.2010 respectively and quash the same and pass such other orders.

Page No: 1/7



W.P.No.24959 of 2010

For Petitioner : Mr.K.Venkataramani
for Mr.M.Muthappan

For Respondents : Mr.R.Neethi Perumal
Government Advocate

ORDER

The challenge in the Writ Petition is the order passed by the 3rd respondent on remand.

2. Heard Mr.K.Venkataramani, learned Senior Counsel for Mr.M.Mutthappan, learned counsel for the petitioner and Mr.R.Neethi Perumal, learned counsel for the respondents.

3. This Court by an order dated 23.03.2010 had set aside the order of punishment that had been imposed by the 3rd respondent by holding that the case requires reconsideration on the hand of the 3rd respondent for imposing a lesser punishment. For better appreciation, the relevant paragraphs 7, 8 and 9 are extracted hereunder:-

“7. Learned Senior Counsel appearing for the



W.P.No.24959 of 2010

petitioner produced before this Court, the details of treatment before the Government Hospital, Cuddalore. Having regard to the same, this Court feels that this case requires re-consideration at the hands of the Director General of Police, third respondent herein for imposing lesser penalty.

8. Hence, taking note of the fact that the petitioner is at the fag end of his career, the impugned orders are set aside and the matter is remitted back to the third respondent to consider the case of the petitioner. The petitioner is directed to produce all the documents relating to the treatment taken by him in the Government Hospital during the period of his absence before the third respondent.

9. The petitioner is directed to make his representation enclosing the copy of the records as regards the treatment taken, to the third respondent herein and on receipt of the representation, the third respondent shall pass orders on the name within a period of twelve weeks from the date of receipt of such representation.”



W.P.No.24959 of 2010

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4. The petitioner was originally inflicted with punishment of removal from service by the 1st respondent. The Appeal against the same was rejected by the 2nd respondent. However, the 3rd respondent had modified the order of punishment into a one of compulsory retirement. The Review filed by the petitioner before the Government was also rejected. The said order of punishment as modified into a one of compulsory retirement was challenged by the petitioner and this Court considering the fact had felt that the case requires reconsideration at the hands of the 3rd respondent for imposing a lesser punishment. The same was not taken on appeal either by the petitioner nor by the respondents and therefore, had attained finality. This Court had also directed the petitioner to substantiate his case for his unauthorised absence by producing all the relevant records for the 3rd respondent to reconsider the case. On remand, the 3rd respondent had passed the order impugned in this Writ Petition reiterated the order of punishment of compulsory retirement which has been impugned in this Writ Petition.

Page No: 4/7



W.P.No.24959 of 2010

WEB COPY

5. On perusal of the order impugned, I am convinced the 3rd respondent had not dealt with the matter as directed by this Court. Be that as it may, the order passed by the 3rd respondent on remand had been passed by Smt.Lathika Saran. It has been brought to the notice of this Court that the order of 2nd respondent confirming the order of 1st respondent namely order of removal from service was also passed by Smt.Lathika Saran holding the post of 2nd respondent at that point of time. In such view of the matter, I am clearly of the view that the 3rd respondent ought not to have entered upon this lis as it is nothing but the same individual sitting on an Appeal against her own order.

6. For the aforesaid reason, the order impugned suffers from personal bias and therefore, liable to be interfered with. In fine, this Writ Petition is allowed and the 3rd respondent is directed to consider the case of the petitioner on the terms made by this Court in its order dated 23.03.2010 in W.P.No.1636 of 2009. Such exercise by the 3rd respondent shall be undertaken within a period of two weeks from the

Page No: 5/7



W.P.No.24959 of 2010

date of receipt of a copy of this order.

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07.12.2023

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Index : Yes/No

Speaking order : Yes/No

Neutral Citations : Yes/No

Note: Issue order copy on 11.12.2023

K.KUMARESH BABU,J.

gba

To

1.The Joint Commissioner of Police,
North Zone, Chennai City-II.

2.The Commissioner of Police,
Greater Chennai,
Egmore, Chennai – 8.

3.The Director General of Police,
Mylapore, Chennai – 4.

Page No: 6/7



WEB COPY



W.P.No.24959 of 2010

W.P.No.24959 of 2010

07.12.2023

Page No: 7/7