



W.P.No.3269 of 2020

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.07.2023

CORAM:

THE HONOURABLE MR.JUSTICE J. SATHYA NARAYANA PRASAD

W.P.No.3269 of 2020
and MP.No.20172 of 2020

N. Raja

... Petitioner

Vs.

1. The State of Tamil Nadu
Rep.by its Secretary to Government
Home Department,
Fort St.George,
Chennai 600 009.
2. The Director General of Police
Dr.Radhakrishnan Salai,
Mylapore,
Chennai 600 004.
3. The Commissioner of Police,
Greater Chennai Police,
Vepery, Chennai 600 007.
4. The Deputy Commissioner of Police
Traffic (West),
Greater Chennai Police,
Vepery,
Chennai 600 007.
5. The Joint Commissioner of Police
Traffic (North)



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Vepery,
Chennai 600 007.

6. The Assistant Commissioner of Police (Traffic)
Flower Bazar Sub Division
Greater Chennai Police,
Chennai 600 079.

... Respondents

PRAYER : Writ Petition filed under Article 226 of Constitution of India, to issue Writ of Certiorari to call for the records pertaining to the proceedings of the respondents 2 to 4 vide their proceedings in RC.No.180568/AP.3(2)/2018 dated 01.06.2019, RC.No.PR V(1)/23/17292/CPO/2017 PR.No.25/PR.Tr/2016 u/r 3(b) dated 20.09.2018 and P.R.No.25P.R.Tr.2016 u/r 3(b) dated 05.12.2017 respectively and quash the same as illegal, incompetent and ultravires.

For Petitioner : Mr.L.Chandrakumar

For Respondents : Mr.M.Shahjahan
Special Government Pleader

ORDER

This writ petition has been filed to call for the records pertaining to the proceedings of the respondents 2 to 4 vide their proceedings in RC.No.180568/AP.3(2)/2018 dated 01.06.2019, RC.No.PR V(1)/23/17292/CPO/2017 PR.No.25/PR.Tr/2016 u/r 3(b) dated 20.09.2018 and P.R.No.25P.R.Tr.2016 u/r 3(b) dated 05.12.2017 respectively and quash the



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same as illegal, incompetent and ultravires.

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2. The facts of the case in a nutshell:-

2.1 The petitioner has joined service in Tamil Nadu Police Department in the year 15.04.1997 as Police Constable Grade – II and have been serving in the said service for 23 years without any blemish. While that being so, on 18.03.2016 while the petitioner was on duty as Traffic Constable at Walltax Road, Isaac Street from 6:00 a.m. to 10:00 a.m. his brother Mr.Ramesh Havildar 1375 called him and sought money for taking their mother to hospital. So the petitioner asked his brother to come to the place where he was on duty that day and asked him to get the money. When his brother came he gave him Rs.2,000/- and asked him to change the same and get him money for his expenses, pursuant to which his brother got change for the said Rs.2,000/- and gave him Rs.600/- and took the remaining with him for their mother's treatment. While this being so, on the same day about 1:30 p.m Inspector of Police, C1 Police Station came to the place of the petitioner's duty and was enquiring the nearby petty shops by showing his mobile phone. The next day on 19.03.2016, the 6th respondent has ordered to conduct an enquiry on the issue and to take disciplinary action against the petitioner by his order dated 19.03.2016 and on



20.03.2016 he was slapped with a suspension order vide proceedings in RC.No.180/6889/Tr.PR/2015 from the Deputy Commissioner of Police Armed Reserve – II Traffic (North) placing the petitioner under immediate suspension. Thereafter charge memo under Rule 3 (b) in PR.No.25/2016 dated 02.04.2016 has been served on the petitioner by the 6th respondent. In the meanwhile, the petitioner was released from Suspension by the Deputy Commissioner of Police, Traffic (North) by an order dated 18.04.2016 and was posted at K3, Aminjikarai Police Station. Thereafter the petitioner gave an explanation on 13.10.2017 for the charges and the 4th respondent has issued a proceedings on 03.11.2017 where he has stated that the charges against the petitioner were partly proved and directed him to file his explanation if any towards the same within 15 days time.

2.2 Aggrieved by the punishment issued, the petitioner has preferred an appeal before the third respondent herein on 13.01.2018 for which Show Cause Notice was issued on 28.06.2018 by the third respondent and the petitioner also gave his explanation on 31.07.2018. Thereafter an order was passed by the appellate authority/third respondent who modified the order passed by the 4th respondent by issuing a punishment of “Postponement of



increment for one year with cumulative effect” vide his proceedings in Rc.No.PR.V(1)/23/17292/CPO/2017. Unfortunately even the 2nd respondent has failed to conduct enquiry independently and decided the issue on merits independently and rejected the Mercy petition filed by the petitioner vide his proceedings in RC.No.180568/AP.3(2)/2018 dated 01.06.2019. Challenging the impugned order, the present writ petition has been filed.

3. The learned counsel appearing for the petitioner submitted that the petitioner was suspended on 20.03.2016 and subsequently charge memo dated 02.04.2016 was issued to him in which it is stated that the petitioner was working in C1 Flower Bazaar Traffic Police Station and on 18.03.2016 while he was on duty at the junction of Wall Tax Road and Issac Road he has received some bribe and the same has been videographed which caused disrespect to the Police department and the suspension was revoked on 18.04.2016 by the Deputy Commissioner of Police, Traffic, (North) Chennai. Enquiry Officer was appointed on 19.07.2017 and the Enquiry Officer submitted the report on 03.11.2017 stating that the charges against the petitioner were not proved, however while on duty taking money from his brother was videographed which he should not have allowed to happen and it had tarnished the image and



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caused disrespect to the police department. The relevant portion of the enquiry report is extracted as hereunder:-

மேலும் விசயமாவது மீது இது போன்ற ஒரு புகார் வரப்பெற்ற பின் அதிலிருந்து இவர் தப்பிக்க வேண்டும் என்ற நோக்கத்தில் இவரது தம்பியை சாட்சியாக இவரே ஏன் அழைத்தியிருந்திருக்கக் கூடாது என்ற ஐயமும் ஏற்படுகிறது.

இக்குற்றச்சாட்டின் மீதான புகாரில் விசயமாவது தன்னிடமிருந்து ரூ. 1100/- கேட்டு வற்புறுத்தி இருந்ததாக ரூ. 600/- பெற்றார் என குறிப்பிடப்பட்டுள்ளது. இவரது தம்பியும் கிள்ளை மாற்றி இவருக்கு ரூ. 600/- கொடுத்ததாக தெரிவித்துள்ளார். இதில் புகார்தாரர் கொடுத்ததாகவும், விசயமாவது வாங்கியதாகவும் குறிப்பிடப்பட்டுள்ள பண விரும்ப ரூ. 600/- என்பதில் ஒற்றுமை உள்ளது. இதனால் இப்புகார் உண்மையாக இருக்க கடும் என கருது வேண்டியுள்ளது.

விசயமாவது சம்பவ இடத்தில் இவரது தம்பியிடம் பணம் கொடுத்து திரும்ப பெற்றதை அவரே ஒப்புக்கொள்கிறார். இவ்வாறு இவர் போது இடத்தில் பணம் கொடுத்து திரும்ப பெற்ற நடவடிக்கையை மேற்கொண்டதானால் அந்த நடவடிக்கை விடையாவது எடுக்கப்பட்டு புகாராக உயர் அதிகாரிகளுக்கு அனுப்பி வைக்கப்பட்டுள்ளது என்பதும், இவருக்கு காரணம் விசயமாவது கவனக்குறைவானது என்பதும் தெளிவாகிறது.

இவை யாவற்றிலிருந்தும் விசயமாவது மீது திரு அக்ஷம் ஜெயின் என்பவர் கொடுக்கின்ற புகாரில் தெரிவிக்கப்பட்டுள்ள குற்றச்சாட்டை நிரூபிக்க போதுமான முகாந்தரங்கள் இல்லை என்பதால் இவர் மீதான இக்குற்றச்சாட்டு நிரூபிக்கப்படவில்லை என முடிவு செய்கிறேன்.

அதே சமயம் சீருடையுடன் புகாரில் இருந்த போது சாதாரண உடையில் இருந்த ஒரு நபரின் (அதாவது இவரது தம்பியிடம்) போது இடத்தில் பணம் கொடுத்து திரும்ப பெறப்படுவது போன்ற சாட்சி விடையாவது எடுக்கப்படும் வகையில் கவனக்குறைவுடன் செயல்பட்டு காவல் துறையின் நற்பெயருக்கு களங்கம் ஏற்படும் வகையில் நடந்து கொண்டதான குற்றச்சாட்டின் ஒரு பகுதி நிரூபணம் (PARTLY PROVED) செய்யப்படுவதாக முடிவு செய்யப்படுகிறது.

காவல் நிலை ஆணை எண். 83 பாகம்-1ல் குறிப்பிட்டுள்ளபடி முறையான எழுத்துமுறையான தேற்றக் விசாரணை நடைபெற்றது என சான்றிடுகிறேன்.

R. Srinivasan 12-12-18
காவல் ஆணை ஆலையாளர்,
கொழும்புத் தாது முன்னாள் பிரிவு (தெற்கு)
அலுவல் நிலை, சென்னை-83



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Despite the Enquiry officer report dated 03.11.2017 the Deputy Commissioner of Police, Traffic (West) Greater Chennai Police, Vepery, Chennai/4th respondent herein has imposed the punishment of “postponement of increment for two years without cumulative effect which shall not operate in his future increments”.

4. The learned counsel for the petitioner further submitted that the petitioner preferred an appeal against the said order on 13.01.2018 before the Commissioner of Police, Greater Chennai Police, Vepery, Chennai/3rd respondent herein and the third respondent passed an order on 20.09.2018 in the appeal by modifying the punishment of “Postponement of increment for two years without cumulative effect which shall not operate in his future increments” into that of “Postponement of increment for one year with cumulative effect”. Against the order passed by the third respondent in the appeal, the petitioner preferred Mercy petition dated 14.12.2018 before the second respondent/The Director General of Police, Chennai and the same was rejected by order dated 01.06.2019 stating that the modified punishment dated 20.09.2018 imposed upon the petitioner seems to be appropriate considering the seriousness of the charges and confirmed the order passed by the third



respondent in the appeal preferred by the petitioner dated 13.01.2018.

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5. The learned Special Government Pleader appearing for the respondents has filed a counter affidavit dated 22.03.2022 and drew the attention of this Court to paragraph No.11 of the counter affidavit and the same is extracted hereunder:-

11. It is submitted that the allegations contained in para 14 of the affidavit are false and that after receiving complaint that the petitioner herein was receiving money and that was circulated in whatsapp group causing disrespect to the Police Force. It is further submitted that the disciplinary authority not satisfied over the said oral enquiry, ordered for a denovo enquiry and disciplinary authority is empowered to do so. The disciplinary authority is not satisfied that person in the said whatsapp video and the brother of the petitioner were not the same person, in such circumstances defence taken by the petitioner in the oral enquiry, that the money was given to him by his brother was unbelievable and contrary to the material facts.

6. The learned Special Government Pleader further submitted that since the petitioner has allowed the person to take videograph had tarnished the image and caused disrespect to the police department that is the reason the punishment has been imposed by the 4th respondent despite the report of the Enquiry Officer holding that the petitioner has not taken money from any third



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person and that he has taken only from his own brother but during the duty hours.

7. Heard both sides and perused the materials available on record.

8. In this case it is pertinent to note that the petitioner was working in C1 Flower Bazaar Traffic Police Station and on 18.03.2016 while he was on duty at the junction of Wall Tax Road and Issac Road he has received money from his brother and the same has been accepted by the Enquiry Officer in his report dated 03.11.2017 but the only charge against the petitioner is that he received the money while in uniform from his own brother who was in ordinary dress for their mother's treatment and he allowed third person to take video of the same which gone viral and caused disrespect to the police department.

9. This Court is of the considered view that the petitioner cannot prevent any person from taking video that too without his knowledge and there is no negligence on the part of the petitioner and he cannot be blamed or held responsible, hence the charge against him is not sustainable. In view of the above facts and circumstances of the case, the punishment imposed on the



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petitioner in RC.No.180568/AP.3(2)/2018 dated 01.06.2019, RC.No.PR V(1)/23/17292/CPO/2017 PR.No.25/PR.Tr/2016 u/r 3(b) dated 20.09.2018 and P.R.No.25P.R.Tr.2016 u/r 3(b) dated 05.12.2017 are liable to be quashed and the same is hereby quashed.

10. In the result, this writ petition stands allowed and the impugned proceedings dated 01.06.2019, 20.09.2018 and 05.12.2017 are quashed. No costs. Consequently connected miscellaneous petition is also closed.

18.07.2023

dpq

Index : Yes /No

Speaking/Non speaking order



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- To
1. The Secretary to Government
State of Tamil Nadu
Home Department,
Fort St.George,
Chennai 600 009.
 2. The Director General of Police
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