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W.P.No.3908 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13..06..2023

Coram

THE HON'BLE MR JUSTICE V. LAKSHMINARAYANAN

Writ Petition No.3908 of 2015
and M.P.No.2 of 2015

A.Anbalagan

..... Petitioner

-Versus-

1.The Government of Tamil Nadu,
Rep. by Principal Secretary,
Home Department,
Fort St. George, Chennai 600009.

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

3.The Deputy Inspector General,
Salem Range, Salem-7.

4.The The Additional Superintendent of Police (PEW),
Coimbatore, Coimbatore-18.

5.P.Selvaraj
Deputy Superintendent of Police,
Kanyakumari Sub-Division,
Kanyakumari District.

..... Respondents

Petition filed under Article 226 of The Constitution of India, praying to issue a Writ of Certiorari calling for the records of the 3rd respondent pertaining to the order in C.No.B2/736/6804/2010 dated 14.09.2010, of the 2nd respondent pertaining to the order R.C.No.79879/con.I(2)/2012 dated 28.01.2014 and of the 1st respondent pertaining to the order G.O.(2D)/No.400,



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dated 07.11.2014 and to quash the same and consequently, direct the respondents 1 and 2 to promote the petitioner as Deputy Superintendent of Police (Category – I) on par with his junior viz., the 5th respondent herein with all consequential benefits.

For Petitioner : Mr.A.Kalaiselvan

For Respondents : Mr.M.Rajendran,
AGP for RR1 to 4

ORDER

This writ petition challenges the order dated 14.09.2010 passed by the 3rd respondent reducing the pay of the petitioner by three stages for five years with cumulative effect and as confirmed by the respondents 2 and 1 by orders dated 28.01.2014 and 07.11.2014 respectively and for a consequential relief of promotion to the post of Deputy Superintendent of Police (Category-I) on par with his junior, the 5th respondent herein.

2. The case of the petitioner in brief is as follows:-

(a) He was directly recruited as Sub Inspector of Police and he joined the services of the department on 25.06.1987. He was promoted as Inspector of Police. The 5th respondent was his junior.

(b) While he was on service, he was served with a charge memo, dated 08.09.2009, containing the following charges:-



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“i. Highly reprehensible, unbecoming conduct and unethical act in having demanded Rs.10,000/- as illegal gratification on 10.02.2007 at 08.00 hrs from Tr.T.P.Murugandam (57), S/o Perumal of Anthiyur at Anthiyur PS for registering a criminal case on his complaint and to take action, then on his request reduced the demand to Rs.5,000/- and accepted Rs.1,000/- as the part amount from him on the same day at 14.30 hrs at Anthiyur P.S. in pursuance of his earlier demand and then instructed Tmt.Yasodadevi, S.I. of Police to register a case in Anthiyur PS Cr.No.75/2017 u/s 120(B) and 420 IPC on the complaint of Tr.P.Murugantham thereby brought discredit to the Police Department.

(ii) Unbecoming conduct in having demanded Rs.1,000/- from Tmt.Govindammal on 17.06.2007 at 10.00 hrs for taking immediate action on her petition and accepted Rs.300/- as initial payment on the same day at 10.30 hrs. thereby brought discredit to the Police Department.

(iii) Unbecoming conduct in having demanded Rs.500/- as bribe from Tr.V.Vetrivel (26) S/o Vaiyapuri of Anthiyur rider of TVS – 50 TN 36 C 1211 for not booking any motor vehicle case against him on



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11.02.2007 at 19.00 hrs at Annamaduvu, Bhavani Road, Anthiyur and on his request reduced the demand to Rs.300/- accepted the same as illegal gratification and thereby brought discredit to the Police Department.

(iv) Unbecoming conduct in having demanded Rs.500/- as bribe from Tr.C.Madaiyan (42) S/o Chinnathambi, Anthiyur for not booking any motor vehicle case against him on 19.03.2007 at 19.30 hrs at Annamaduvu, Bhavani Road, Anthiyur and on his request reduced the demand to Rs.300/- accepted the same as illegal gratification and thereby brought discredit to the Police Department.

(v) Unbecoming conduct in having demanded Rs.10,000/- as illegal gratification from Tr.Venkidupoosary (72) S/o Late Narayana Poosari, Kanakkan Kattu Thottam, Alampalayam Madhur Village, Bhavani Taluk, Erode District and Tr.R.Ramasamy (47) S/o Late Rangasamy, Senkattuthottam, Moongilpalayam, Ennamangalam village, Bhavani Taluk, Erode District for taking proper action on their petitions No.367/2007 and 368/2007 submitted at Vellithiruppur Police Station, reduced the demand to Rs.8,000/- on their request and accepted the same from them on 13.12.2007 at 06.00 hrs at his



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residential quarters at Anthiyur, further on 19.12.2007 at 10.00 hrs at Vellithiruppur Police Station demanded Rs.15,000/- as illegal gratification from Tr.R.Ramasamy to take action in support of him for restoring his pooja rights at their community temple byname “Eluthia Marathan Koil” at Alampalayam in Vellithiruppur Police Station limits, on his request reduced the demand to Rs.10,000/- and accepted the same from Tr.Ramasamy on the same day at 14.00 hrs at Vellithiruppur Police Station, thereby brought discredit to the Police Department.”

(c) The petitioner was called upon to submit his explanation on the above charges. Accordingly, he submitted his written explanation denying all the charges. Thereafter, an oral enquiry was conducted between 12.12.2009 to 09.04.2010. As many as 23 witnesses were examined and 44 documents were marked on the side of the disciplinary authority.

(d) The delinquent was also given an opportunity to cross examine the witnesses and also produce the defence witnesses on his side. Accordingly, he had participated in the enquiry and also produced 2 witnesses in support of his defence that the entire case was foisted because of a Police Constable One Dhanapalan, who was inimical to him. According to the petitioner, the said Dhanapalan led the witnesses to the Office of Vigilance and Anti Corruption in



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order to lodge complaints against him.

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(e) It is pertinent to note that the complaint that was lodged by the defence witnesses against Dhanapalan was after the incidents that had occurred under which the petitioner was charged. He was charged for incidents that had taken place in the year 2007, whereas the defence witnesses had lodged complaint against Dhanapalan, Police Constable, on 08.03.2008. In any event, the petitioner was unable to shake the credibility of the witnesses examined on the side of the disciplinary authority during their cross examination and therefore, the enquiry officer came to a conclusion that the Charge Nos.1, 2, 4 & 5 were proved and charge No.3 was not proved.

(f) The punishing authority viz., the Deputy Inspector General of Police, Salem, took a view after review of the enquiry report that only Charge Nos.1, 2 & 5 were proved and Charge Nos. 3 & 4 were not proved. A copy of the report of the enquiry officer was also furnished to the petitioner and he gave his explanation. Thereafter, the Deputy Inspector General of Police, Salem, imposed a punishment of reduction in pay by three stages for five years with cumulative effect on 14.09.2010.

(g) Challenging the order of punishment, the petitioner preferred a memorandum under Rule 15(A)(1)(i) of the Tamil Nadu Police Subordinate



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Service (Discipline and Appeal) Rules, 1955. The Director General of Police

has also gone through the evidence in detail and came to a conclusion that the guilt has been proved and therefore, dismissed the petition/appeal.

(h). Aggrieved by the same, a revision was preferred to the Government and it was also rejected in G.O.(2D) No.400, Home (Police-IV) Department, dated 07.11.2014. Challenging these proceedings, the petitioner has come forward with the present writ petition.

3. Mr.A.Kalaiselvan, the learned counsel appearing for the petitioner would submit that the order is in violation of principles of natural justice. He states that records that were sought for by the petitioner were not furnished to him in time. He would also state that the manner of appreciation of the defence witnesses was improper and therefore, it requires interference at the hands of this court under Article 226 of the Constitution of India.

4. He would also state that the order is a non speaking order and therefore, it is contrary to the settled position and that the reason is the heart beat of an order and that being absent, he would pray that the writ petition be allowed.

5. Rebutting the arguments of the learned counsel for the petitioner, Mr.M.Rajendran, learned Additional Government Pleader appearing for the



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respondents 1 to 4 would submit that the authorities had carefully perused the matter and had then come to the conclusion that the charges had been proved.

He would also state that for the charges which had been found to be proved a very lenient punishment had been imposed by the department and therefore, it does not require any interference at the hands of this court in a proceeding under Article 226 of the Constitution of India.

6. I have carefully gone through the records more particularly, the orders of the original, appellate and also the revisional authorities. I find that cogent reasons had been given by all the three authorities. They are not the authorities dealing with the case as if they are a civil court in order to frame issues and answer the same seriatim but, were dealing with a disciplinary enquiry on charges which had been found to be proved. The fact that the Deputy Inspector General of Police, Salem Range, exonerated the petitioner from the charge Nos.3 & 4 would show that there had been an application of mind by such authority prior to the arrival of conclusion.

7. A perusal of the order would also show that he had given cogent and, in my view, valid reasons for the purpose of placing guilt on the delinquent. The Deputy Inspector General of Police had also taken an effort and had gone through the records in full as is evidenced from the perusal of the records.



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Once the original authority and the appellate authority/Director General of Police, Tamil Nadu, had given reasons, the fact that the revisional authority had not given any reason does not vitiate the order.

8. It is settled position of law that the revisional authority while confirming the order need not assign elaborate reasons, but the order must have enough materials to show that there has been an application of mind. This is especially so, when no new point had been urged before the revisional authority viz., the Government. Therefore, the argument of Mr.A.Kalaiselvan, learned counsel for the petitioner that the impugned orders suffer from lack of reason does not appeal to me.

9. Insofar as the argument of Mr.A.Kalaiselvan that there were violation of principles of natural justice and the fact that the documents sought for by the petitioner were not furnished are concerned, a perusal of the orders impugned would show that enquiry had commenced in the month of December 2009 and proceeded till April 2010 i.e., from 12.12.2009 to 09.04.2010. During the five long months, the petitioner had ample opportunity to peruse the records and to put forth his valid defence. The records show that the petitioner had extensively cross examined the witnesses. Apart from that, as already pointed out, he had also produced defence evidence to substantiate his defence. The fact that the



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said Dhanapalan had foisted the case and Dhanapalan himself is the person who was liable to be proceeded against does not exonerate the petitioner from the charges. Therefore, I am unable to persuade myself to agree with the submission of the learned counsel for the petitioner that there had been violation of principles of natural justice or that there had been substantial prejudice caused to him by the denial of documents.

10. Coming to the quantum of punishment – here is the case where a member of uniformed service had been charged for obtaining gratification from the general public and the same had been proved. That in itself is sufficient to be visited with the punishment of removal from service. However, the authorities had taken a lenient view and had only directed reduction in pay by three stages for five years with cumulative effect. The punishment that had been imposed is merciful and cannot be said to be excessive or one that shocks the conscience of this court, requiring interference in a proceeding under Article 226 of the Constitution of India. The writ petition is devoid of merits and the same is liable to be dismissed.

In the result, this writ petition is dismissed. The order dated 14.09.2010 passed by the 3rd respondent and as confirmed by the respondents 2 and 1 by



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orders on 28.01.2014 and 07.11.2014 respectively stand maintained. No costs.

WEB Consequently, connected MP is closed.

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Index : yes / no
Neutral Citation : yes / no
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To

- 1.The Principal Secretary,
Government of Tamil Nadu,
Home Department, Fort St. George,
Chennai 600009.
- 2.The Director General of Police,
Mylapore, Chennai 600 004.
- 3.The Deputy Inspector General,
Salem Range, Salem-7.
- 4.The The Additional Superintendent of Police (PEW),
Coimbatore, Coimbatore-18.



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V.LAKSHMINARAYANAN, J.

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