



W.P.No.4021 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.08.2023

CORAM

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.4021 of 2015

S.Gnanamurthy

... Petitioner

-Vs-

1. The Director General of Police,
Mylapore,
Chennai – 600 004.

2. The Deputy Inspector General of Police,
Vellore Range,
Vellore.

3. The Superintendent of Police,
Vellore District,
Vellore.

... Respondents

Prayer:- Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Certiorarified Mandamus, to call for the records in pursuant to the impugned order passed by the third respondent in proceedings C.No.PR.105/HI(2)/2013 u/r 3(b) dated 20.12.2013 and the first Appellate Order of the second respondent in proceeding C.No.B2/AP.01/362/2014 dated 11.01.2014 and the second Appellate Order passed by the first respondent in proceeding Na.Ka.No.30475/Appeal2(2)/2014 dated 05.12.2014 and quash these



W.P.No.4021 of 2015

orders and consequently direct the respondents to reinstate the petitioner with full salary and other consequential service benefits.

For Petitioner : Mr.R.Prem Narayan
For Respondents : Dr.T.Seenivasan
Special Government Pleader

ORDER

This Writ Petition has been filed challenging the order passed by the first respondent dated 05.12.2014, thereby dismissing the revision and confirmed the order passed by the second respondent dated 11.01.2014, thereby dismissing the appeal and confirmed the order passed by the third respondent dated 20.12.2013, thereby ordered punishment of compulsory retirement of the petitioner.

2. Heard the learned counsel for the petitioner and the learned counsel for the respondents and perused the materials available on record.

3. The petitioner was working as a Head Constable in Vazhapandal Police Station, Vellore District. While being so, he was served with a charge memo under Rule 3(b) of Tamil Nadu Police



W.P.No.4021 of 2015

Subordinate Services Discipline and Appeal Rules dated 14.05.2013

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consisting of three charges, which are as follows:-

“ (i) Being a Government Servant got transferred a property bearing No.19, T.S.No.5, Kellys Road, Karai Madura, Ranipet measuring 1000 sq.fts belongs to one Thiru. Venkatesan and his family members from the said Venkatesan without the consent of other stake holders for a sum of Rs.2,75,000/- in an unregistered document in violation rules governing transfer of property.

(ii) Entering all the property transaction agreement without registering in the Registration Office and purchased the property in a Rs.50/- NJS Stamp paper on 31.03.2011 for a sum of Rs.2,75,000/- from Thiru.Venkatesan and created documents that the value of the property is Rs.18,30,000/- and the same is the ancestral property of the Delinquent Officer and subsequently transferred the property to his wife through a settlement deed and also evicted the lawful owners of the property and paved way for representing before higher officials.

(iii) The Delinquent Officer, being a Government Servant without following any procedure of obtaining Government permission for purchasing movable property purchased a property for Rs.2,75,000/- from a person without the consent of other stake holders of the property and subsequently transferred the property to his wife through a settlement deed and thereby violated the provisions of TNPSO Conduct Rules 1964 and thus brought discredit to the department.”

4. Though the petitioner submitted his explanations, without being satisfied with the same, ordered for domestic enquiry. In the domestic enquiry, the Enquiry Officer found all the charges proved



W.P.No.4021 of 2015

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against the petitioner. On the strength of the enquiry report, the third respondent imposed punishment of compulsory retirement. Aggrieved by the same, the petitioner preferred an appeal before the second respondent. The second respondent, is being the Appellate authority, by an order dated 11.01.2014, dismissed the appeal confirming the order of the third respondent. Once again, aggrieved by the same, the petitioner preferred revision before the first respondent and the first respondent, by an order dated 05.12.2014, dismissed the revision confirming the order passed by the second respondent. Hence, this writ petition.

5. The learned counsel for the petitioner would submit that the charge itself is civil in nature. The property which was purchased by the petitioner belong to the Government and it is classified as Government Poromboke land. He had purchased a property bearing No.19, T.S.No.5, Kellys Road, Karai Madura, Ranipet, ad-measuring 1000 sq.ft, without the consent of other shareholders, for a total consideration of Rs.2,75,000/- by an unregistered sale deed. Further, the petitioner, without obtaining any prior approval from the superior Officer, purchased the said property, thereby violated the provisions of TNPSO



W.P.No.4021 of 2015

Conduct Rules, 1964 and thus, brought discredit to the department. In fact, his vendor was examined by the third respondent and he categorically deposed that on the strength of the Koor Chit, he had half share in the subject property and as such, he had intended to sell the property in favour of the petitioner. Accordingly, he had received the entire sale consideration in respect of his share alone and sold out in favour of the petitioner. Since the said property is classified as Poromboke land, the Registering Authority refused to register the document.

6. On the strength of the unregistered sale deed, the petitioner had settled the said property in favour of his wife. Even assuming that his vendor, without the consent of other shareholders had sold the property, the entire allegations are civil in nature and the petitioner never committed any departmental irregularity or anything in respect of official duty. Therefore, the punishment imposed on the petitioner is disproportionate to the charges framed against him.



W.P.No.4021 of 2015

WEB COPY

7. A perusal of the counter filed by the respondents revealed that the petitioner purchased an immovable property by the unregistered sale deed for the value of Rs.2,75,000/- without the consent of other shareholders of the property and subsequently transferred the said property to and in favour of his wife, thereby the petitioner had violated the provisions of the Tamil Nadu Subordinate Police Officers' Conduct Rules, 1964 and thus, brought discredit to the department. It is further revealed that the petitioner failed to comply with the provisions as per Rule 9(1)(a) of Tamil Nadu Subordinate Police Officers' Conduct Rules, 1964. Accordingly, no Police Officer shall, except after notice to the prescribed authority, acquire or dispose of any immovable property by lease, mortgage, purchase, sale, gift, exchange or otherwise either in his own name or in the name of any member of his family. Therefore, the third respondent had rightly imposed punishment of compulsory retirement.

8. Admittedly, the vendor of the petitioner is a close relative of the petitioner's wife. The subject property comprised in T.S.No.5, Kellys Road, Karai Madura, Ranipet, owned by one Subramani. He died



W.P.No.4021 of 2015

intestate leaving behind his wife, three daughters and two sons as his legal heirs. After the demise of the said Subramani, two sons alone had entered into an unregistered partition deed (Koor Chit). The total extent of the property is 2000 sq.ft. As per their partition, each was allotted half share viz., 1000 sq.ft. The share of one of the sons viz., Venkatesan was sold to the petitioner. Further, the said property is classified as Poromboke and the vendor's father was enjoying the said property under B memo. Therefore, the sale deed executed in favour of the petitioner was not registered, since the said property is classified as Poromboke. After purchase, the petitioner had settled the said property in favour of his wife by a registered settlement deed. Only on the complaint lodged by one of the sisters of the petitioner's vendor, the third respondent subjected the petitioner for three charges.

9. Therefore, the first charge is civil in nature that too between the family members of the petitioner's vendor. Further, the transaction between the close relatives which gave rise to the charge was purely a private affair between the petitioner and his relatives. The said transaction had nothing to do with the petitioner's official duties. In fact,



W.P.No.4021 of 2015

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no complaint was lodged by the sisters of the petitioner's vendor as against the vendor or the petitioner.

10. Insofar as the second charge is concerned, admittedly, the petitioner purchased the said property in his name by an unregistered sale deed without getting prior permission from the superior Officer. It is violation of Rule 9(1)(a) of Tamil Nadu Subordinate Police Officers' Conduct Rules, 1964. Accordingly, no Police Officer shall, except after notice to the prescribed authority, acquire or dispose of any immovable property by lease, mortgage, purchase, sale, gift, exchange or otherwise either in his own name or in the name of any member of his family. Though the petitioner purchased the subject property by an unregistered sale deed, subsequently, he had settled the said property in favour of his wife. Therefore, it is a clear violation of the above said Rule.

11. Insofar as the third charge is concerned, it would not amount to discredit to his department. As stated supra, the entire transactions are between the family members that too between his close relatives. In fact, a complaint was lodged by a co-sharer alleging that she was not added as



W.P.No.4021 of 2015

a party in the partition between her brothers. Only male issues of the deceased Subramani had entered into partition deed (Koor Chit) and shared the property into half share each. The said complaint has nothing to do with the petitioner, who is the purchaser of the said property.

12. In view of the above, the punishment and compulsory retirement imposed on the petitioner is disproportionate to the charges. Therefore, it is liable to be modified. Accordingly, the impugned order of the third respondent in proceedings C.No.PR.105/HI(2)/2013 u/r 3(b) dated 20.12.2013 is modified to the effect that stoppage of increment of the petitioner for a period of one year without cumulative effect. The third respondent is directed to reinstate the petitioner into service with service continuity and full back wages and arrears of salary, if any shall be settled to the petitioner, within a period of twelve weeks from the date of receipt of a copy of this order.



W.P.No.4021 of 2015

13. Accordingly, this writ petition is disposed of. No costs.

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09.08.2023

Internet : Yes

Index : Yes/No

Speaking order/Non-speaking order
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W.P.No.4021 of 2015

To

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Mylapore,
Chennai – 600 004.
2. The Deputy Inspector General of Police,
Vellore Range,
Vellore.
3. The Superintendent of Police,
Vellore District,
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W.P.No.4021 of 2015

G.K.ILANTHIRAIYAN, J.

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W.P.No.4021 of 2015

09.08.2023