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W.P.No.14635 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.02.2023

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.14635 of 2018

P.Jayashankar

...Petitioner

Vs.

1.The Deputy Inspector General of Police,
Vellore Range, Vellore District.

2.The Additional Director General of Police (L&O),
O/o. 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, calling for the records of the 1st respondent in connection with the impugned order passed by him in C.No.B1/PR No.1/2016 (in PR No.19/2009) dated 09.03.2016 and confirmed by the 2nd respondent in his RC No.046336/AP.1(2)/2017 dated 31.08.2017 and quash the same.

For Petitioner : Mr.R.Venkataramani, Sr. Counsel
for Mr.M.Muthappan

For Respondent : Mr.D.Gopal,
Government Advocate



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ORDER

Heard Mr.R.Venkataramani, learned Senior Counsel appearing for the petitioner and Mr.D.Gopal, learned Government Advocate for the respondents.

2. Under Rule 6(1) of the Tamil Nadu Police Subordinate Service (Discipline and Appeal) Rules, the appellate authority, while dealing with an appeal petition, is required to consider as to whether, the facts on which the punishment order was passed, has been properly established and if established, whether sufficient grounds for taking action has been made.

3. In the instant case, the petitioner was originally dealt with for four charges and the Enquiry Officer had held the charges to be proved. The disciplinary authority/first respondent herein had imposed the punishment of postponement of next increment for two years, through his order dated 09.03.2016. As against the same, the petitioner herein had preferred an appeal before the second respondent herein and by an order dated 31.08.2017, the second respondent had rejected the plea, by



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observing as follows:-

"6) I have carefully gone through the appeal petition and connected records. I do not find any clinching material warranting any interference with the punishment awarded. Hence, appeal is rejected"

4. The aforesaid order is clearly a non-speaking order, wherein there is nothing to indicate that the second respondent herein had adhered to the procedure contemplated under Rule 6(1) of the Tamil Nadu Police Subordinate Services (Discipline and Appeal) Rules. The appeal does not state as to whether the facts on which the punishment order has been established nor does it establish that sufficient grounds have been made for taking action. As such, the order itself, since being in violation of the rules, cannot be sustained.

5. In the light of the above observations, the impugned orders dated 09.03.2016 and 31.08.2017 are quashed the matter is remitted back to the second respondent for fresh consideration. The second respondent shall endeavor to reconsider the petitioner's appeal petition dated 20.04.2016, in the light of the observations made by this Court, in



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accordance with the procedure contemplated under the Tamil Nadu Police Subordinate Services (Discipline and Appeal) Rules, 1955 and pass a reasoned speaking order, atleast within a period of three months from the date of receipt of a copy of this order.

6. Accordingly, the writ petition stands partly allowed. No costs.

02.02.2023

Index:Yes/No

Neutral citation:Yes/No

Speaking order/Non-speaking order

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To

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M.S.RAMESH,J.

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