



Writ Petition No.158 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.10.2023

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THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Writ Petition No.158 of 2017

R.Janardhanan
S/o.Ramadoss

... Petitioner

Vs.

1.The Superintendent of Police,
Nagapattinam District,
Nagapattinam.

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

3.The Director General of Police,
Tamil Nadu, Chennai - 600 004.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records of the first respondent in connection with the impugned order passed by him in PR No.16/2000 dated 31.10.2000, confirmed by the second respondent in C.No.B2/4087/2009 dated 07.06.2010 and modified by the third respondent



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in his RC No.203810/API(1)/2015 dated 31.01.2015 and the consequential order passed by the first respondent in D.O.No.483/2015 in C.No.K2/4584/2015 dated 12.05.2015 and D.No.536/2015 in C.No.A1/9228/2015 dated 08.06.2015 and quash the same.

For Petitioner : Mr.K.Venkat Ramani, Senior Counsel
for Mr.M.Muthappan

For Respondents : Dr.T.Seenivasan
Special Government Pleader

ORDER

This Writ Petition has been filed seeking to quash the impugned orders passed by the first respondent in PR No.16/2000 dated 31.10.2000, confirmed by the second respondent in C.No.B2/4087/2009 dated 07.06.2010 and modified by the third respondent in his RC No.203810/API(1)/2015 dated 31.01.2015 and the consequential order passed by the first respondent in D.O.No.483/2015 in C.No.K2/4584/2015 dated 12.05.2015 and D.No.536/2015 in C.No.A1/9228/2015 dated 08.06.2015.

2. The case of the petitioner in a nutshell is as follows:



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2.1. The petitioner was working as Grade-II Police Constable at Nagapattinam District and upgraded to Grade-I Police Constable in the year 1997 and as Head Constable in the year 2002. The petitioner was due for upgradation as Special Sub-Inspector on 01.04.2010, but it was postponed and finally, he was upgraded as Special Sub-Inspector on 31.12.2012. The petitioner has received more than 100 rewards and has not come to adverse notice so far.

2.2. The petitioner was proceeded departmentally under Rule 3(b) of Tamil Nadu Police Subordinate Services (Discipline and Appeal) Rules, 1955 in PR No.16/2000 by the Superintendent of Police, Nagapattinam, dated 06.06.2000 for the following delinquencies:

- (i) Gross neglect of duty and highly reprehensible conduct by demanding a bribe of Rs.4,000/- on 25.08.1998 while working at Voimedu Police Station, from Tr.S.A.Balasubramanian S/o.Arumugam of Maruthur north village, Vedaranyam Taluk for not foisting prohibition case against him.
- (ii) Gross neglect of duty and highly reprehensible conduct by demanding a



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bribe of Rs.2,500/- from Tr.Veeraiyan S/o.Sonnasi, Maruthur South Vedaranyam Taluk for deleting his name from Voimedu PS, Cr.No.202/1998 u/s.363 IPC and accepted the bribe money of Rs.2,500/- during August'1998.

2.3. The Deputy Superintendent of Police, Vedaranyam, was appointed as Enquiry Officer and he conducted an oral enquiry and held that Charge No.1 was proved and Charge No.2 was not proved. The disciplinary authority accepted the findings of the Enquiry Officer and imposed punishment of reduction in time scale of pay for 2 years by stages with cumulative effect. Aggrieved over the same, the petitioner preferred an appeal before the Deputy Inspector General of Police, Thanjavur Range, Thanjavur. However, the said appeal was dismissed vide judgment dated 06.01.2001. Since the petitioner was denied promotion on account of punishment imposed on him, he filed a mercy petition before the Director General of Police, Tamil Nadu, however, the same was rejected on 11.09.2003. Aggrieved over the same, the petitioner approached this Court



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by filing W.P.No.28772 of 2004 and this Court, by order dated 11.03.2009, set aside the order and remitted the matter back to the second respondent to pass a reasoned order on merits. In the meanwhile, the petitioner's batch mates promoted as Special Sub Inspectors of Police and the petitioner was subsequently promoted on 01.03.2012 after giving effect to the punishment.

2.4. The second respondent once again considered the case of the petitioner and rejected the same by order dated 07.06.2010. However, in respect of co-delinquents, the punishment was modified to one of reduction in time scale of pay by one stage for one year without cumulative effect, but, in the case of petitioner, the original punishment was confirmed.

2.5. The petitioner again submitted a mercy petition to the Director General of Police on 30.06.2014 requesting to set aside the punishment of postponement of increment for two years with cumulative effect on the ground of discrimination, but, the first respondent did not forward the papers to the third respondent on the ground that the petitioner's mercy



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petition has already been rejected on 11.03.2009. While doing so, the first respondent has failed to take note of the fact that the order of respondents 2 and 3 has already been set aside on 11.03.2009 by this Court. Hence, the petitioner once again approached this Court by filing W.P.No.28449 of 2014 requesting to pass orders on the mercy petition dated 30.06.2014. This Court, by order dated 31.10.2014, directed the third respondent to pass orders on the mercy petition in accordance with law within a period of eight (8) weeks. Again, by order dated 31.01.2015, the third respondent held that the punishment is not excessive, but, modified the punishment into one of postponement of two increments for two years without cumulative effect, which will not have effects on his future increments since this will have electric effect not only on the promotion of the petitioner but also reduction in his salary. The punishment of reduction in the time scale of pay was given effect to from 2000 to 2002 and consequently, the petitioner was given promotion as Special Sub-Inspector of Police on 31.12.2012 with effect from 01.01.2013. The punishment of postponement of increment for two years with cumulative effect was given effect to from 2002-14 and



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consequently, the upgradation of the petitioner as Special Sub-Inspector of Police was postponed to 01.01.2014, a reduction of one year. Though the punishment was modified, it cannot be given effect to. Hence, the petitioner has approached this Court by filing the present Writ Petition seeking for the aforesaid relief.

3. Heard Mr.K.Venkat Ramani, learned Senior Counsel appearing for petitioner and Dr.T.Seenivasan, learned Special Government Pleader, appearing for respondents.

4. Learned Senior Counsel appearing for petitioner submitted that the first charge against the petitioner was held to be proved based on the evidence of PW-1 and PW-2. Both the evidence of PW-1 and PW-2 are unacceptable since the evidence of PW-1 is highly motivated and prejudiced, since the petitioner was the cause for investigation in the case filed against PW-1 and PW-2 is not a direct evidence, it is only a circumstantial evidence. Even by preponderance of probability, it cannot be



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accepted for the purpose of coming to the conclusion that the petitioner has committed the delinquency.

5. Learned Special Government Pleader appearing for respondents submitted that during the enquiry, PW-1 had clearly deposed about the demand of illegal gratification of Rs.4,000/- made by the petitioner from him for not foisting prohibition case against him. Further, the evidence of PW-1 was corroborated by PW-2. Hence, considering the evidence as against the petitioner and the gravity of charges, the first respondent imposed punishment, which was confirmed by the second respondent. After considering the issue in detail, the mercy petitions filed by the petitioner were dismissed. Upon conducting an enquiry and after carefully taking into account the materials placed, the first respondent has imposed the punishment against the petitioner and the same was confirmed by the second respondent and thereafter, modified by the third respondent. Hence, the orders, which are under challenge, do not require the interference of this Court.

6. This Court has considered the rival submissions and perused the



materials on record.

7. The charge of illegal demand of Rs.4,000/- from one Mr.S.A.Balasubramanian for not foisting prohibition case against him was framed against the petitioner and two others. There is no material to show that it was only the petitioner, who demanded illegal gratification. Moreover, there is also discrimination in awarding the punishment to the petitioner since the co-delinquent against whom both charges have been proved, was imposed with punishment of stoppage of increment for a period of one year, whereas, in the case of the petitioner, only one charge was proved for which a punishment of postponement of increment for two years with cumulative effect has been imposed. When such grounds were raised by the petitioner in the mercy petition, the third respondent, who is expected to consider all the points raised by the petitioner, has simply rejected the mercy petition without giving reasons. This Court had remitted the matter back to the authorities to consider afresh since this Court was of the view that the order was passed without taking into account the grounds raised by



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the petitioner and this Court, while remitting the matter back, had specifically stated that the authorities should pass orders only after considering all the grounds raised by the petitioner on merits, but, thereafter also, the authorities had failed to consider the points raised by the petitioner and passed a non-speaking order rejecting the claim of the petitioner. Moreover, when it was the case of the respondents that no prohibition case was pending against Mr.S.A.Balasubramanian, then there was no need for the petitioner to demand illegal gratification from him for not foisting a prohibition case against him. PW-2 is also not a direct evidence in this case. Therefore, this Court is of the view that the authorities have passed the orders without considering the grounds raised by the petitioner.

8. In view of the aforesaid discussion, this Court is of the view that the orders impugned herein require the interference of this Court and the same are liable to be set aside.

Accordingly, this Writ Petition is allowed and the impugned order



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passed by the first respondent in PR No.16/2000 dated 31.10.2000, confirmed by the second respondent in C.No.B2/4087/2009 dated 07.06.2010 and modified by the third respondent in his RC No.203810/API(1)/2015 dated 31.01.2015 and the consequential order passed by the first respondent in D.O.No.483/2015 in C.No.K2/4584/2015 dated 12.05.2015 and D.No.536/2015 in C.No.A1/9228/2015 dated 08.06.2015 are hereby set aside. No costs.

03.10.2023

Index : Yes/No
Speaking order: Yes/No
Neutral citation: Yes/No
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To
1.The Superintendent of Police,
Nagapattinam District, Nagapattinam.

2.The Deputy Inspector General of Police,
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V.BHAVANI SUBBAROYAN., J



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