



W.P Nos. 30181 of 2018 etc.,

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.09.2023

CORAM

THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

W.P.Nos.30181, 30184, 30189, 30899 & 30192 of 2018

And

W.M.P.Nos. 35241, 35245, 35249, 36052 & 35253 of 2018

D.Ammadurai

... Petitioner in all W.Ps.

-Vs-

1. The Government of Tamil Nadu
Rep. by the Secretary to Government
Home Department
Fort St. George
Chennai – 600 009.

2. Director General of Police
Tamil Nadu
Chennai – 600 004.

... Respondents in W.P.No. 30181/2018

1. The Government of Tamil Nadu
Rep. by the Secretary to Government
Home Department
Fort St. George
Chennai – 600 009.



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2. Director General of Police
Tamil Nadu
Chennai – 600 004.
3. Deputy Inspector General of Police
Thanjavur Range,
Thanjavur.
4. Superintendent of Police
District Police Office
Thanjavur District.

... Respondents in W.P.No. 30184/2018

1. The Government of Tamil Nadu
Rep. by the Secretary to Government
Home Department
Fort St. George
Chennai – 600 009.
2. Director General of Police
Tamil Nadu
Chennai – 600 004.
3. Additional Director General of Police
Law & Order
Tamilnadu, Chennai – 600 004.
4. Deputy Inspector General of Police
Coimbatore Range,
Coimbatore.

... Respondents in W.P.No. 30189/2018

1. The Government of Tamil Nadu



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Rep. by the Secretary to Government
Home Department
Fort St. George
Chennai – 600 009.

2. Director General of Police
Tamil Nadu
Chennai – 600 004.
3. Deputy Inspector General of Police
Coimbatore Range,
Coimbatore.
4. Superintendent of Police
District Police Office
Coimbatore.

... Respondents in W.P.No. 30899/2018

1. The Government of Tamil Nadu
Rep. by the Secretary to Government
Home Department
Fort St. George
Chennai – 600 009.
2. Director General of Police
Tamil Nadu
Chennai – 600 004.
3. Additional Director General of Police
Law & Order
Tamilnadu, Chennai – 600 004.
4. Deputy Inspector General of Police
Thanjavur Range,
Thanjavur.



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5. Deputy Inspector General of Police
Coimbatore Range,
Coimbatore.

... Respondents in W.P.No. 30192/2018

PRAYER IN W.P.No. 30181/2018: Writ Petition under Article 226 of the Constitution of India praying for a Writ of Mandamus directing the respondents herein to include the name of the petitioner in the panel of Inspectors fit for promotion as Deputy Superintendent of Police (Category I) for the year 2017-2018 issued in G.O.Ms.No. 1006 Home (Pol-2) Department dated 16.08.2018 at Sl.No. 60A and promote the petitioner as Deputy Superintendent of Police from the date of promotion of his immediate juniors together with all consequential service and monetary benefits within a time frame.

PRAYER IN W.P.No. 30184/2018: Writ Petition under Article 226 of the Constitution of India praying for a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order passed by the fourth respondent herein in his proceedings P.R.No. 36 of 2017 u/r.3(a) of TNPSS Rules dated 21.09.2017 and order of the third respondent herein in his proceedings C.No.B2/APPEAL-10/2018 dated 25.07.2018 and quash the same and consequentially direct the respondents herein to promote the petitioner as Deputy Superintendent of Police, Category I, without reference to the impugned order.



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PRAYER IN W.P.No. 30189/2018: Writ Petition under Article 226 of the Constitution of India praying for a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order passed by the third respondent herein in his proceedings Rc.No.62689/Con.II(1)/2016 dated 15.02.2017 and the order of the second respondent in his proceedings Rc.No. 099104/API(1)/2017 dated 19.02.2018 and quash the same and consequentially direct the respondents herein to promote the petitioner as Deputy Superintendent of Police, Category I, without reference to the impugned order.

PRAYER IN W.P.No. 30899/2018: Writ Petition under Article 226 of the Constitution of India praying for a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order passed by the fourth respondent herein in his proceedings Na.Ka.No.J2/P.R.86/2014 u/r.3(a) dated 02.03.2015 and confirmed by the third respondent herein in his proceedings C.No.D2/2862/2015 dated 24.07.2015 and quash the same and consequentially direct the respondents herein to promote the petitioner as Deputy Superintendent of Police, Category I, without reference to the impugned order.

PRAYER IN W.P.No. 30191/2018: Writ Petition under Article 226 of the Constitution of India praying for a Writ of Certiorarified Mandamus calling



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for the records pertaining to the impugned order passed by the fourth respondent herein in his proceedings Na.Ka.No.B1/Sa.A/P.R.26/2015 in Range Office Order No. 318/2015 dated 11.12.2015 and third respondent herein in his proceedings Rc.No. 036348/AP.I(1)/2016 dated 24.06.2016 and the order of modification of the second respondent in his proceedings Rc.No.037588/AP.I(1)/2017 dated 07.05.2018 and quash the same and consequentially direct the respondents herein to promote the petitioner as Deputy Superintendent of Police, Category I, without reference to the impugned order.

For Petitioner : Mr. G.Bala
For RR 1 & 2 : Mr. S.Ravi Kumar
Special Government Pleader

COMMON ORDER

All the five Writ Petitions have been filed by the same petitioner questioning imposition of punishments with respect to four separate charge memos issued against the petitioner herein.

2. W.P.No. 30181 of 2018 which can be called the first Writ



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Petition, had been filed in the nature of Mandamus seeking a direction to the respondents to include the name of the petitioner in the panel of Inspectors fit for promotion as Deputy Superintendent of Police (Category I) for the year 2017-2018.

3. The petitioner's name was not considered for such promotion owing to punishments imposed in four different charge memos issued. Those charge memos and the punishments imposed have been questioned in the other four Writ Petitions.

4. W.P.No. 30184 of 2018 had been filed in the nature of Certiorarified Mandamus seeking records relating to the order of the fourth respondent / Superintendent of Police, District Police Office, Thanjavur District, dated 21.09.2017 and the further order of the third respondent, Deputy Inspector General of Police, Thanjavur Range, Thanjavur, dated 25.07.2018 and quash both the said orders and direct them to promote the petitioner as Deputy Superintendent of Police, Category I, without reference to the said punishments.



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5. It must be stated in brief that a punishment of censure had been imposed by the aforementioned orders of the third and fourth respondents, consequent to the charge, that the petitioner had not properly verified and checked the vehicles passing through that police station where he was functioning which resulted in an accident taking place and reported at Vallam Police Station in Crime No. 221 of 2017 under Sections 279, 337 and 304(A) IPC. In effect, the charge was that the petitioner had failed to prevent the accident in which there was a head on collision between a Tamilnadu Transport Bus and a Tata Ace vehicle which caused 10 fatal deaths.

6. In W.P.No. 30189 of 2018, the petitioner sought a Certiorarified Mandamus relating to an order passed by the third respondent/ Additional Director General of Police, Tamil Nadu, Chennai, dated 15.02.2017 and an order of the second respondent, Director General of Police, Tamil Nadu, Chennai, dated 19.02.2018 and to quash the same and to consider the promotion of the petitioner as Deputy Superintendent of Police, Category I,



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without reference to the punishments imposed.

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7. The punishments imposed was with respect to a charge against the petitioner that he had conducted only perfunctory investigation in four cases registered primarily for the offence under Section 420 IPC. It had been stated that on filing final report, the charges against the accused therein had been dropped. In this connection, a punishment of postponement of increment for a period of two years with cumulative effect had been imposed on the petitioner herein. The said punishment had been confirmed by the second respondent, necessitating the petitioner to file the said Writ Petition.

8. In W.P.No. 30899 of 2018, the petitioner had again sought a Certiorarified Mandamus relating to proceedings of the fourth respondent /Superintendent of Police, Coimbatore, dated 02.03.2015 and confirmed by the third respondent / Deputy Inspector General of Police, Coimbatore Range, Coimbatore, dated 24.07.2015 and to quash the same.



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9. The entire issue relates to alleged dereliction of duty by the petitioner to send a case property, namely a chain to the Court of the Judicial Magistrate at Udumalpet. It is stated that the Magistrate had returned the case property and had stated that the petitioner should come over the next day owing to there being a doubt over jurisdiction at that time owing to bifurcation of Coimbatore District. The further charge was that the petitioner had failed to make arrangements to return the property to the defacto complainant and had also failed to handover the said property to his successor / Inspector of Police. In this connection, a punishment of postponement of increment for a period of one year without cumulative effect had been passed and confirmed by the respondents herein, necessitating the petitioner to file the said Writ Petition.

10. In W.P.No. 30192 of 2018 the petitioner again seeks a Certiorarified Mandamus relating to an order passed by the fourth respondent, Deputy Inspector of General of Police, Thanjavur Range, Thanjavur and also by the third respondent / Additional Director General of Police, Law and Order, Tamil Nadu, dated 24.06.2016 and the order of modification passed by the second respondent / Director General of Police,

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Tamil Nadu, Chennai, dated 07.05.2018 and quash all the aforementioned orders and direct the consideration of the petitioner to the post of Deputy Superintendent of Police, Category I.

11. The entire charge relates to alleged, according to the respondents, manipulation of the log book of the official car and that he had pressurised the drivers to write the entires according to his directions. Some of the allegations had been held proved and some of them had been held not proved but still a punishment of postponement of increment for a period of one year without cumulative effect had been passed by the second respondent, Director General of Police. The writ petitioner questioned that particular punishment order in the said Writ Petition.

12. To state facts in more detail, in the affidavit filed in support of W.P.No. 30184 of 2018 with respect to the particular charge in the Writ Petition, it is stated that the petitioner was expected to conduct vehicle check and to take action against violators of provisions of Motor Vehicle Act on the National Highway between Trichy and Thanjavur. There was a major fatal accident at Alakkudi Bridge on 14.07.2017 at around 7 p.m., A Government bus had dashed against a TATA ACE vehicle which carried steel



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angles and which caused the death of ten persons and injuries to 22 persons.

In this connection, Crime No. 221 of 017 under Sections 279, 337 and 304(A) IPC, had been registered at Vallam Police Station.

13. In the affidavit filed to explain the circumstances, which, according to the petitioner, should mitigate the punishment imposed, it had been stated that the petitioner, on that particular date, was involved in the investigation of a sensitive murder case and had arrested the accused therein on 14.07.2017 and on 15.07.2017. It was therefore contended that the accident had taken place at a far away place and the petitioner could not visualise that a vehicle which crossed the police station would be the cause of an accident. It was also stated that the place where the accident took place was not under the jurisdiction of the petitioner herein. It was therefore contended that the charge was perverse and that the petitioner has been singled out to be proceeded with by the respondents.

14. In the counter affidavit filed with respect to this particular Writ Petition, it had been stated that the petitioner had failed to conduct vehicle check and take action against the violators of provisions of Motor Vehicle



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Act. It had been stated that quite apart from the petitioner, the Inspector of Police, Vallam, the Special Sub Inspector of Police, Sengipatti Police Station, and the Sub Inspector of Police, Sengipatti Police Station, were all issued with charge memos and departmental actions were initiated against all of them. A punishment of censure had been passed by the Superintendent of Police. It had been stated that an appeal had been preferred by the petitioner before the Deputy Inspector General of Police, Thanjavur Range. That was rejected by an order dated 25.07.2018 and thereafter, the present Writ Petition had been filed.

15. It is the case of the respondents that the TATA ACE vehicle carried over load of steel rods / pipes and when the Government bus which followed it dashed against it, the rods pierced the front glass sheet of the bus and caused death of ten passengers in the bus.

16. In the affidavit filed in W.P.No. 30189 of 2018 in support of the Writ Petition, it had been stated that the main charge against the petitioner herein was that there were four separate cases which had been registered at Pollachi East Police Station where the petitioner was the Inspector of Police.



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The first one was in Crime No. 828 of 2011 under Section 420 IPC, the second one was in Crime No. 830 of 2011 under Section 420 IPC, the third one was in Crime No. 874 of 2011 under Sections 147, 342, 420, 323, 327 and 506(i) IPC and the fourth one was in Crime No. 153 of 2012 under Sections 480, 420 IPC. It had been stated that the petitioner had conducted perfunctory investigation in all the four cases and had filed a report before the jurisdictional Magistrate Court dropping the charges.

17. It is the contention of the petitioner that the learned jurisdictional Magistrate had issued notice to the defacto complainants and thereafter, there being no further protest raised against the final report dropping of charges, had closed the First Information Report. After that, during the enquiry also, it is contended that the defacto complainants had not raised any objection for the FIRs being closed. It is therefore contended that the punishment imposed should be interfered with by this Court.

18. In the counter affidavit filed with respect to the said Writ Petition, it had been stated that the petitioner had exhibited his lethargic



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attitude in discharge of duties and it had been stated that without conducting proper investigation in cheating cases, he had filed the final report. It had also been stated that with respect to Crime No. 828 of 2011, the petitioner had no jurisdiction since the offence took place at Madurai Thirunagar Colony Police Station at PTR Engineering College and the petitioner, without transferring the investigation to the concerned police station had taken up the investigation and without enquiring the accused and recording statements of witnesses had come to a conclusion that all the entire complaints were a mistake of fact and had closed the investigation.

19. With respect to the registration of Crime No. 827 of 2011, it had been stated that the petitioner as Investigating Officer had not conducted any enquiry, had not collected the original documents and without conducting proper investigation had *suo moto* closed the case as mistake of act. It had been stated that there were as may as 34 witnesses to be examined in that particular case and who were not examined.

20. With respect to Crime No. 830 of 2011, wherein again an issue



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of cheating was involved and also involved bank transactions, it had been stated that the petitioner without conducting any proper enquiry had closed the case as mistake of fact on his own accord, even though according to the respondents, there were sufficient documentary evidence and witnesses to prove the offence.

21. With respect to Crime No. 153 of 2012, it had been stated that the accused therein including an Assistant Professor of Annamalai University had collected money from the public on the pretext of securing jobs. It had been stated that the accused had obtained anticipatory bail. It had also been contended that the petitioner did not ensure that the accused complied with the terms of the conditions imposed while granting anticipatory bail and had closed the case as mistake of fact on his own accord. It had also been stated that no entries had been made in the case diary to hold that the petitioner had enquired one Kamaraj. The statement of Kamaraj was not found in the case diary file. It has been thus stated that the petitioner conducted very lethargic investigation.

22. In the affidavit filed in support of W.P.No. 30899 of 2018, the



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petitioner had stated that the charge against him was that he had failed to make arrangements to return the case property to the complainant Tmt. Kavitha and also to hand over the same to his successor / Tr.T.Subramani, Inspector of Police. It had been stated that the allegation was that he had failed to send the case property in Gomangalam Police Station in Crime No. 236 of 2009 to the Judicial Magistrate Court at Ulundurpet though he had actually forwarded it and it had been returned by the Magistrate, Ulundurpet directing production in the next day.

23. The contention of the petitioner was that there was bifurcation of Coimbatore District and there was a jurisdictional issue whether the said police station would come under the jurisdiction of Judicial Magistrate No.II, Pollachi or under the Judicial Magistrate, Ulundurpet and it was under those circumstances that the property was returned back to the petitioner herein for production in the next hearing date. It was also contended that there was such an endorsement made in the bundle itself by the Judicial Magistrate.

24. In the counter affidavit filed with respect to that particular Writ



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Petition, it had been stated that the property had been seized from the accused and should have been produced before the concerned Judicial Magistrate while remanding the accused to custody. It had been stated that the petitioner had shifted the blame on the Special Sub Inspector of Police of the concerned police station. It had also been stated that the petitioner should have insisted the said Special Sub Inspector of Police to exercise his duties within a time frame. It had been stated that the petitioner had betrayed public trust. It had also been stated that the charge was properly framed against the petitioner herein and that there had been dereliction of duty by the petitioner and therefore, it had been contended that the Writ Petition should be dismissed.

25. In the affidavit filed in support of W.P.No. 30192 of 2018, it had been contended that Cr.Nos. 27/2014, 141/2014, 143/2014 and 224/2014 had been registered by Perundurai Police Station. The petitioner had conducted a panchayat and it was contended that he was responsible for the accused to approach the Court to get anticipatory bail. It had also been stated that with respect to Known Delinquent Check Register, various

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discrepancies detected when inspected. It was also found that he had retained the driver with himself and had stated that unless the driver remained back him, he would not sign in the official records relating to the service of the said driver.

26. The learned counsel for the petitioner contended with respect to all these cases that the cases were registered on the directions of the Judicial Magistrate and enquiries were conducted even before registering the First Information Report. It was stated that apprehending arrest, the accused had obtained anticipatory bail and it had therefore been stated that there was no misconduct made out so far as the charge is concerned. With respect to the entries in the known delinquent Check Register, it was contended that the enquiry officer had found the same as not proved. With respect to the directions given to the driver and the entries in the log book, however, the enquiry officer had found that the charge had been proved.

27. In the counter affidavit filed, it had been stated that the petitioner was expected to discharge his duties. With respect to the charge



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of pressurising the driver to write the log book as per his directions, it had been stated that the said statement had been established during the course of enquiry by the statement of the Sub Inspector of Police, Armed Reserve, Erode District and the Inspector of Police, Armed Reserve, Erode District. It had also been stated that the petitioner had pressurised his driver to write the log book as per his directions. It had also been stated that the petitioner had also failed to prove that he had not insisted that entries should be made in the log book. It had thus been stated that the punishment imposed was proper and the Court should not interfere with the same.

28. There is one more Writ Petition in W.P.No. 30181 of 2018, the facts of which will be addressed at a later stage.

29. Heard arguments advanced by the learned counsel for the petitioner in all the Writ Petitions and the learned Special Government Pleader appearing for the respondents in all the Writ Petitions.

30. The writ petitioner had joined the Tamilnadu Police Services on



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25.05.1988. He was appointed as Grade II Police Constable. He was then promoted as Sub Inspector of Police in the year 1994-1995. He was further promoted as Inspector of Police in the year 2006. He was then in line for promotion as Deputy Superintendent of Police Category – I in the year 2017-2018. The petitioner claimed that he has been a victim of circumstances and those circumstances had been stated by him in the affidavit filed in support of W.P.No. 30181 of 2018. I shall come to the facts of that particular case at a late stage.

31. With respect to the charge memo in W.P.No. 30184 of 2018, it is the contention of the learned counsel for the petitioner that on 14.07.2017, the petitioner was investigating a case of murder, which had occurred in the area and which was of sensitive nature. He had investigated the offence and ensured that the accused were arrested on 14.07.2017 and on 15.07.2017. It had been thus contended that the petitioner could not therefore be held responsible for not checking the vehicle crossed his police station carrying steel rods.

32. It had been contended by the learned counsel for the petitioner that a bus dashed against the said TATA ACE Vehicle from behind, as a

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result of which, about 10 persons died. The learned counsel stated that it was too far fetched on the part of the respondents to contend that the petitioner was responsible for not preventing the said accident. The learned counsel stated that a punishment of censure had been imposed against the petitioner for dereliction of duty and stated that owing to this punishment, the petitioner was not promoted as Deputy Superintendent of Police, for a period of one year. The learned counsel for the petitioner stated that the charge had been fixed on the petitioner to some how or the other ensure that he was not promoted as Deputy Superintendent of Police.

33. With respect to W.P.No. 30189 of 2018, which was with respect to the four First Information Reports registered primarily under Section 420 IPC, in Pollachi East Police Station, the learned counsel stated that further investigation or enquiry over the four cases had revealed that the investigation was proper. It was stated by the learned counsel that it was only in one case, it was found that the investigation was perfunctory in nature. The learned counsel also placed reliance on internal correspondences between the officials wherein there is a correspondence that further

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investigation will have to be done with respect to the said First Information Report which had been closed as 'mistake of fact' by the petitioner herein.

34. The learned counsel stated that a copy application filed and search made in the jurisdictional Magistrate Court did not reveal that such further investigation had actually been done. The right of the respondents to do such further investigation was taken up as an issue by the learned counsel for the petitioner herein.

35. It had also been contended by the learned counsel for the petitioner that though the final report had been filed, closing the cases as mistakes of fact, in none of the cases had the defacto complainants had raised objections and the Magistrate had also applied his mind before passing orders closing the cases. It had therefore been stated that judicial orders had been passed. It had therefore been stated by the learned counsel for the petitioner that the departmental proceedings on this aspect was again initiated with view to prevent the petitioner from being promoted as Deputy Superintendent of Police.



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36. With respect to the charges in W.P.No. 30192 of 2018, the learned counsel for the petitioner stated that though there was a responsibility of writing the log book of the official vehicles, it was the two drivers, who had to write the entires. He stated that the log books should be thereafter submitted before the higher authorities. He further stated that the log book was lost and therefore a fresh log book was written.

37. During the enquiry, it was observed that the log book was written in one handwriting and therefore, it was held that it had been was prepared and if wrong entires had been made.

38. The learned counsel for the petitioner contended that it was not the responsibility of the petitioner and again re-iterated that the said charge had been imposed only to ensure that the petitioner was not promoted as Deputy Superintendent of Police within the stipulated time or at the time when his next immediate Junior was so considered.



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39. With respect to the averments in W.P.No. 30899 of 2018, the learned counsel pointed out that there was an issue of jurisdiction consequent to the bifurcation of Coimbatore District and formation of Tiruppur District. There was a doubt relating to the territorial jurisdiction of the Courts of Udumalpet Magistrate and Judicial Magistrate No.II, Pollachi. He stated that the case property was handed over to the Court of the Judicial Magistrate at Udumalpet, who directed that it should be brought back the next day as there was a doubt over the jurisdiction of the said Magistrate to take the case property on file. The learned counsel therefore contended that the petitioner should not be faulted on this ground. The learned counsel again reiterated that the petitioner had been foisted with false charges only to ensure that he was not promoted as Deputy Superintendent of Police.

40. The learned Special Government Pleader however contested each one of the above arguments advanced by the learned counsel for the petitioner herein.

41. With respect to averments in W.P.No. 30184 of 2018 wherein a



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punishment of censure had been passed consequent to an accident which had occurred between a Government Transport Bus and a TATA ACE vehicle which carried extended steel rods, the learned Special Government Pleader pointed out that as an Inspector in that particular area, the petitioner also had the duty to ensure that vehicles which passed across his station were not a source of danger. It was stated that the TATA ACE vehicle carried loads of steel rods which were protruding outside and since it was not flagged down by the petitioner and by other Inspectors/Sub Inspector across the stations where it moved, the collision between the Government Transport Bus and the van, caused the death of ten passengers. It was contended by the learned Special Government Pleader that though the charge was serious a punishment of censure alone was imposed against the petitioner. The same punishment had been imposed on other Sub Inspectors /Inspectors of the other police Stations. It was therefore contended that the dereliction of duty of the petitioner was glaring and it was urged that the Court should not interfere with the punishment imposed.

42. With respect to the averments in W.P.No. 30189 of 2018, the



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learned Special Government Pleader stated that all the four cases related to the allegation of cheating and that the petitioner had not conducted investigation properly. It was also stated by the learned Special Government Pleader that final reports had been prepared by the petitioner in his capacity as Investigating Officer, dropping all the charges as mistake of fact. Even though the Judicial Magistrate had passed consequential orders, the right of the respondents to examine the nature of the investigation by way of departmental enquiry was asserted by the learned Special Government Pleader. It was contended that the respondents had every right to re-examine every case wherein final reports had been filed dropping the charges. It had been stated that the offences were serious in nature and without examining the witnesses and without properly maintaining the case diary, the final reports had been filed and therefore, the learned Special Government Pleader stated that the punishments imposed should stand and should not be interfered with by this Court. Even though the enquiry officer had dropped three of the charges, still the learned Special Government Pleader insisted that in one case atleast, the charge stood proved that should be sustained to hold that the petitioner was guilty of dereliction of duty.



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43. With respect to the averments in W.P.No. 30192 of 2018, the learned Special Government Pleader stated that the maintenance of log book is a very sacracent duty. It must be maintained by the Inspector of Police. It would reflect the places where the Inspector moved in his official vehicle. It would also show whether he had actually gone to a particular place for investigation. The learned Special Government Pleader stated that non maintenance of the log book only screened the movements of the petitioner and contended that an enquiry had been conducted and the charge was held to be proved and necessary punishment had been imposed on the petitioner herein. It was therefore stated that the Court should not interfere with the same.

44. With respect to the averments in W.P.No. 30899 of 2018, the learned Special Government Pleader stated that return of a case property to the defacto complainant was one of the important duties of any Investigating Officer. It should be returned back within the time and even if it could not be done, it should be handed over to the successor in Office, the next



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Inspector of Police. It is contended that the property was never produced before the Court within time. This would have an effect upon the final Judgment in the case. There is a possibility of the property being secreted and adverse inference taken by the Magistrate. The learned Special Government Pleader therefore insisted that the punishment imposed was proper and stated that the Court should not interfere with the same.

45. I have carefully considered the arguments advanced in all the aforementioned Writ Petitions.

46. I would once again state that the averments in W.P.No. 30181 of 2018 shall be addressed separately.

47. In all the four cases narrated above, the petitioner, who originally joined as Grade-I Constable and was subsequently promoted as Sub Inspector and as Inspector of Police is before this Court seeking to quash the punishments in four separate charge memos which had been issued to him. All the four related to dereliction in discharge of official duty. All the related to discharge of his duties as Inspector of Police in various



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police stations where he had worked.

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48. In W.P.No. 30184 of 2018, the charge was that a TATA ACE vehicle moved in the highways between Trichy and Thanjavur and the petitioner had failed to note that it was carrying steel rods which projected outside the vehicle. The vehicle moved across four separate Police Stations. Thereafter, a Government Transport Bus had collided from behind and the steel rods penetrated into the bus and caused the death of ten passengers.

49. The question to be asked is whether the petitioner can give an excuse that he had been involved in investigating a murder case and therefore had been blind and did not notice the van carrying steel rods evidently protruding dangerously. Even if the petitioner was involved in the investigation of a murder case, which was a sensitive case according to the petitioner, I hold that the petitioner, as Inspector of Police had a duty to place officers in his jurisdiction and in his police station to look out for vehicles which could be a cause for accident. It is common knowledge that any vehicle which carries extended steel rods on a highway is always a



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source of danger. Any vehicle coming behind it will have to necessarily adjust the speed to ensure that they do not come not just close to the vehicle but also not come close to the extended portion of the steel rods. The Government Bus unfortunately dashed against the van and the steel rods protruded inside the bus causing death of ten innocent passengers. Family members had lost a father, a mother, a brother, a sister, a son or a daughter. The petitioner should realise that he should put his men to check vehicles which go across his police station. It is basic training and it would be evident to any person that when a vehicle moves across a highway carrying protruding steel rods, it should be flagged down and the driver should be asked to take safety measures. It is seen from the records that not only was the petitioner proceeded against but three other officials were also proceeded against. The respondents have not singled out the petitioner alone.

50. It is seen from the records and also evident from the counter affidavit that the Inspector of Police, Vallam Police Station, the petitioner, who was Inspector of Police, Budalur, Police Station, the Special Sub Inspector of Police and Sub Inspector of Sengipatty Police Station were all

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proceeded against by the respondents. All of them were imposed with a punishment of censure. The petitioner had filed an Appeal and there is no complaint that opportunity was not granted during the enquiry or that the appeal was not considered properly. All the four officials including the petitioner were imposed with the same punishment of censure. Therefore, there cannot be any complaint of there being unequal treatment.

51. All the delinquents suffered the same punishment of censure. It would be too far for the petitioner to point out that he was investigating another case and therefore, was not able to notice the van which speeded past by his police station. The petitioner as the head of the unit even if involved in any other case, should have placed other Officials to be watchful. If he had not so placed them that would also indicate that he had dereliction from his duty.

52. I would not interfere with the punishment imposed and therefore **W.P.No. 30184 of 2018 is dismissed.**



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53. With respect to W.P.No. 30189 of 2018, the issue was with respect to the investigation done by the petitioner in four separate cases. The four cases had been registered by the petitioner were in Crime No. 828/11 for offence under Section 420 IPC, in Crime No. 830 of 2011 for offence under Section 420 IPC, in Crime No. 874/2011 for offence under Sections 147, 342, 420, 323, 324, 506(i) IPC and in Crime No. 153 of 2012 for offence under Sections 480 & 420 IPC. The petitioner, had filed final reports in all the cases, dropping the charges as mistake of fact. During the enquiry, only one charge was held to have been proved and that the investigation had been conducted in a perfunctory manner.

54. It is common knowledge that registration of an FIR is on the basis of information received in the police station. Thereafter, the Investigating Officer, in this case, the petitioner, will have to examine the contents and the nature of the allegations and record statements of witnesses and determine whether a case is made out to file a final report to be taken cognizance by the jurisdictional Magistrate. The final report can always be



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questioned if at all a perfunctory investigation is to be done. The law provides for it. Even when a final report is filed dropping the charges on the ground of mistake of fact, a duty is cast on the Judicial Magistrate to issue notice to the defacto complainant. The defacto complainant has a right to protest against such final report and can seek appropriate orders.

55. In the instant case, the learned counsel for the petitioner stated that the respondents were of the opinion that further investigation should be done. The right of the police officials to conduct further investigation had been directly answered by a learned Single Judge of this Court in a Judgment reported in *1981 LW (Crl.) 151 [Namasivayam Vs. State]*. The learned Single Judge had put it very brusquely when he stated “*the police had no power to reinvestigate the same complaint or to retain the investigation at the instance of the Inspector of Police again and file a charge sheet against the petitioner.*” It is thus seen that the reinvestigation or further investigation can be done only when directed by the Court and certainly not by the police. When a final report had been filed holding that



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the charges will have to be dropped, then, if the Magistrate closes the case, a further judicial order will be required to reopen that order. The police can never direct reinvestigation by themselves when a final report had been presented dropping the charges as 'mistake of fact'.

56. In the instant case, there was an order of reinvestigation by the police. It is informed that no such reinvestigation was actually done.

57. The learned Special Government Pleader stated that the respondents have every right to enquire into the nature of the investigation conducted and stated that said particular right is inbuilt with supervision exercised by the higher officials. That is a correct statement. If there is no check within the department, then it would only give a free hand to every Investigating Officer to file a final report as and how he / she pleases and dictate the manner in which the case should flow and that cannot be permitted and there should be a check to maintain balance at every stage. It is also to be noted that every final report which is filed will have to be counter signed and examined by the prosecution agency. There will be an

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examination to determine whether the final report had been filed after proper investigation. These are small checks made before a final report is filed in Court. Even otherwise as an internal measure, the respondents have a right to examine whether investigation was properly done. In this particular case, during the domestic enquiry it had been held that in three cases, it cannot be said that the investigation was perverse and it was only in one it was held to be perfunctory in nature. If at all the respondents were of the opinion that the investigation done by the petitioner was perfunctory and the enquiry officer had returned a finding that in three of them, the charges had not been proved, then such report will have to be critically examined in entirety, birth with respect to the findings holding some of the charges as proved and with respect to the findings that one charge was held not proved.

58. The disciplinary authority had accepted the findings of the enquiry officer. They ought to have re-examined even the findings with respect to the three cases where it was held that the investigation was not perverse. They accepted the report of the Enquiry Officer with respect to the one charge in which he held that the investigation was perfunctory. I hold



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that there has been no proper application of mind by the disciplinary authority, I would therefore interfere with the punishment imposed and the same is set aside. Accordingly, **W.P.No. 30189 of 2018 is allowed.**

59. The crux of the issue in W.P.No. 30192 of 2018 is about improper maintenance of the log book of the official vehicle used by the petitioner. The log book is maintained by every police station and reflects the movement of the police officials. It is a mirror of the duties discharged. It reflects where the Officer had gone and to which place he had gone and whether there was an official necessity to go over to that particular place. The Log book is to keep record of the movement of the police official. Every police official should disclose their movements. Their movements can also be determined by examination of the log book. It is a crucial record. If the log book had been lost, disciplinary action has to be initiated against the person, who was responsible for the loss of the log book. The log book cannot be re-written after considerable period of time.

60. I am not able to understand how a fresh log book was re-written giving details of the movement of the petitioner. This particular charge had been held to be proved and the punishment had been imposed



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accordingly. I hold it is a very serious charge. It may appear to be only maintenance of particular record but it is a very significant record. The respondents had imposed a punishment of cut of increment for a period of one year with cumulative effect.

61. I find no reason to interfere with the said punishment. Hence,
W.P.No. 30192 of 2018 is dismissed.

62. In W.P.No. 30899 of 2018, the issue involved is return of a case property. As a fact, Coimbatore District had been bifurcated and Tiruppur District had been formed. At that particular point of time, there were issues with respect to jurisdiction of the Magistrate Courts. The property was a chain which had been stolen and recovered by the petitioner. It had been handed over to the Judicial Magistrate, Udulmalpet. The learned Magistrate had returned it wondering his right to accept the case property as he had a doubt about the territorial jurisdiction. The said Court should then have forwarded to the case property to the Judicial Magistrate Court No.2 at Pollachi. These are issues which were beyond the control of the petitioner



63. It is not as if the petitioner had converted the chain into cash or misappropriated it or that the petitioner had given an alternate chain to the defacto complainant. It was an issue of handing over the chain to the defacto complainant. Even though the charge was held proved during the disciplinary proceedings, I hold that the issue was certainly beyond the control of the petitioner owing to the bifurcation of the District and the respondents had not examined the explanation given by the petitioner in this regard. It could not be a stand alone case, and there must have been several other cases pending owing to doubt about jurisdiction. Therefore, I would interfere with the punishment imposed since this particular charge was on an issue which was beyond the control of the petitioner herein. Hence, the impugned order is set aside and **W.P.No. 30899 of 2018 stands allowed.**

64. Let me turn around to examine the first Writ Petition filed by the petitioner.

65. In W.P.No. 30181 of 2018, the main grievance of the petitioner is that he had been singled out by a Senior Police officer who was named in



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the affidavit, when the petitioner had enquired into a POSCO case and had ensured conviction of the accused therein, defying the instructions given by the named police official, who apparently wanted that particular accused to be set at liberty. These are issues, this Court can never examine particularly in the absence of the said Officer being made as a respondent in the Writ Petition. He is not here to answer the allegations in the affidavit. If at all any finding is to be given then it can be given only after hearing the concerned Officer, who is named in the affidavit. He is not a party to the Writ Petition and therefore, I would not give any credence to the statements made by the petitioner herein.

66. This Court had examined the four other Writ Petitions filed and in two of them, the punishments imposed has been sustained. Naturally, when the punishment imposed are sustained, they will have to run their course and only then can promotion be granted to the petitioner herein. Promotion cannot sought as a right. It should be earned by diligence. It should be earned by good conduct. The petitioner had failed in two instances



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wherein the allegations in the charge memos issued against him stood established and such finding has been confirmed by this Court.

67. Therefore, a Mandamus directing the respondents to promote the petitioner in the panel of Inspectors to Deputy Superintendent of Police (category I) for the year 2017-2018 as sought for by the petitioner can never be issued by this Court. The Writ Petition in **W.P.No. 30184 of 2018 is dismissed.**

68. I am informed that subsequently, the petitioner had actually been promoted as Deputy Superintendent of Police. The said statement is placed on record.

69. In the result:-

- (1). W.P.No. 30181 of 2018 is dismissed.
- (2). W.P.No. 30184 of 2018 is dismissed.
- (3). W.P.No. 30189 of 2018 is allowed.
- (4). W.P.No. 30192 of 2018 is dismissed.
- (5). W.P.No. 30899 of 2018 is allowed.



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(6). No costs.

(7). All connected Miscellaneous Petitions are closed.

vsg

26.09.2023

Index:Yes/No

Neutral Citation:Yes/No

To

1. The Secretary to Government
The Government of Tamil Nadu
Home Department
Fort St. George
Chennai – 600 009.
2. Director General of Police
Tamil Nadu
Chennai – 600 004.
3. Deputy Inspector General of Police
Thanjavur Range,
Thanjavur.
4. Superintendent of Police
District Police Office
Thanjavur District.
5. Additional Director General of Police
Law & Order

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Tamilnadu, Chennai – 600 004.

6. Deputy Inspector General of Police
Coimbatore Range,
Coimbatore.
7. Deputy Inspector General of Police
Coimbatore Range,
Coimbatore.
8. Superintendent of Police
District Police Office
Coimbatore.

C.V.KARTHIKEYAN,J.

vsg

9. Additional Director General of Police
Law & Order
Tamilnadu, Chennai – 600 004.
10. Deputy Inspector General of Police
Thanjavur Range,
Thanjavur.
11. Deputy Inspector General of Police
Coimbatore Range,
Coimbatore.



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W.P.Nos. 30181 of 2018 etc.,

W.P.Nos.30181, 30184, 30189, 30899 & 30192 of 2018

And

W.M.P.Nos. 35241, 35245, 35249, 36052 & 35253 of 2018

26.09.2023