



W.P.(MD)No.7253 of 2020

WEB COPY

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 19.04.2023**

**CORAM**

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

**W.P.(MD)No.7253 of 2020**

**and**

**W.M.P(MD)No.6688 of 2020**

T.Seeralan

... Petitioner

Vs

- 1.The Secretary to Government,  
Home Department,  
Secretariat,  
Chennai.
- 2.The Additional Chief Secretary to Government,  
Home (POL-IV) Department,  
Secretariat,  
Chennai.
- 3.The Director General of Police,  
Tamilnadu,  
O/o.The Director General of Police,  
Chennai.
- 4.The Additional Director General of Police,  
Law and Order,  
Tamil Nadu,  
Chennai.



W.P.(MD)No.7253 of 2020

5.The Deputy Inspector General of Police,  
Madurai Range,  
Madurai.

6.The Superintendent of Police,  
Virudhunagar District,  
Virudhunagar.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the second respondent in G.O.(D) No.118 Home (POL-IV) Department dated 27.01.2020 conforming the order passed the third respondent in Rc.No. 143742/AP.2(3)/2018 dated 20.10.2018, the order passed by the fourth respondent in Rc.No. 177432/AP.2(3)/2017 dated 02.05.2018 and the order passed by the fifth respondent in Rc.No. A2(1)/11776/2014 in P.R.No.85/2015 dated 14.09.2017 and consequently directing the respondents to give promotion and all other service benefits to the petitioner forthwith.

For Petitioner : Mr.A.Robinson

For Respondents : Mr.K.Balasubramani  
Special Government Pleader

### **ORDER**

Heard the learned counsel appearing for the petitioner and the learned Special Government Pleader appearing for the respondents.

2. The petitioner joined the Police Department as Sub Inspector of Police on 01.03.1996. He was subsequently promoted as Inspector of Police in the



**W.P.(MD)No.7253 of 2020**

year 2006. When he was working as Inspector of Police, Thiruthangal Police Station, a godown belonging to one Logaraj of Annai Transport Thiruthangal was raided. It was found that 3602 boxes of crackers had been illegally stocked. In this regard, Crime No.531 of 2014 was registered on the file of Thiruthangal Police Station for the offence under Section 9(b)1(b) of the Explosives Act, 1884. The godown was also sealed. But when on 08.10.2014, surprise check was made, it was noticed that 3219 box had already been removed.

3. The petitioner was suspended from service on 10.10.2014. The petitioner was issued with charge memo on 22.08.2015. He was also prosecuted. Enquiry was conducted and the enquiry officer found the charges framed against the petitioner as proved. The disciplinary authority imposed the punishment of postponement of increment for a period of two years without cumulative effect. This order was passed on 14.09.2017. Aggrieved by the same, the petitioner filed appeal before the Additional Director General of Police (Law and Order), Tamil Nadu, Chennai. Vide order dated 02.05.2018, the appeal petition was rejected. Questioning the same, the petitioner filed a petition before the Director General of Police, Tamil Nadu, Chennai. Vide order dated 20.10.2018, the authority declined to intervene. The petitioner thereafter moved the Government. Vide G.O(D)No.118 Home (POL-IV)



W.P.(MD)No.7253 of 2020

Department dated 27.01.2020, the petition was rejected. Challenging the same, the present writ petition came to be filed.

4. The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to set aside the impugned order and grant the relief as prayed for.

5. The respondents have filed counter affidavit and the learned Special Government Pleader took me through its contents. He submitted that even though in the criminal case the petitioner was acquitted, the same cannot inure to his advantage. This is because the standard of proof obtaining in a departmental proceeding is different. It is enough if there is some evidence in support of the charges framed in the charge memo. The petitioner admittedly had raided the godown in question and sealed the same. The petitioner cannot deny that 3602 boxes were inside the sealed godown. Subsequently, when surprise inspection was conducted on 08.10.2014, 3219 boxes were found missing. The petitioner having come to know of the same on 03.10.2014 itself ought to have registered an FIR and taken strong action. He failed to do so. There was lapse in the part of the petitioner in exercising supervisory functions.



W.P.(MD)No.7253 of 2020

6. The learned Special Government Pleader would point out that the issue was considered by the disciplinary authority, appellate authority, the Director General of Police and the Government. As many as four authorities have considered the case against the petitioner and come to the conclusion that the petitioner was at fault and imposed the punishment of stoppage of increment for a period of two years without cumulative effect. He submitted that the said order will not have any bearing on the petitioner's pension. Since the petitioner had already undergone the punishment, there is no need to interfere at this stage. The learned Special Government Pleader would further point out that if any lesser punishment was handed down to a co-employee, that would again not confer any right to the petitioner to seek parity. He pressed for dismissal of the writ petition.

7. I carefully considered the rival contentions and went through the materials on record.

8. I sustain the stand of the learned Special Government Pleader that it may not be open to the writ Court to re-appreciate the evidence when as many as four authorities have gone through the case record. In fact, the learned counsel for the petitioner also at one point of time did not appear to insist that



W.P.(MD)No.7253 of 2020

the petitioner must be exonerated of the charges. He would rather pray for parity of the treatment. The learned counsel appearing for the petitioner pointed out that along with the petitioner, the Sub Inspector of Police, Thiruthangal Police Station was also charged. The case against the petitioner as well as the Sub Inspector of Police was on the same footing and on the same cause of action.

9. My attention is drawn to the order dated 15.09.2017 passed by the Deputy Inspector General of Police, Madurai Range, Madurai imposing the punishment of censure on the Sub Inspector of Police. Of course, Deputy Inspector General of Police appears to have taken into account the relative inexperience of the Sub Inspector of Police. Thiru.N.Dhilipan had joined as Sub Inspector of Police only in the year 2011. Since this occurrence had taken place in the year 2014, the disciplinary authority felt that Sub Inspector of Police need not be visited with any harsh punishment. The Hon'ble Apex Court in the decision reported in **(2010) 5 SCC 783 (State of Uttar Pradesh and Others Vs Raj Pal Singh)**. Paragraph Nos.4, 5 and 6 read as follows:

*“4. It is contended on behalf of the appellants that once the charges have been held to be established, it was not appropriate for the High Court to interfere with the quantum of punishment and judged from this standpoint, the order of*



WEB COPY

*the High Court cannot be sustained. In support of the said contention, reliance is placed on the decision of this Court in B. C. Chaturvedi v. U.O.I, and Ors. And Secretary to Government, Home Department and Ors. v. Srivaikundathan.*

*5.Though, on principle, the ratio in aforesaid cases would ordinarily apply, but in the case in hand, the High Court appears to have considered the nature of charges leveled against the 5 employees who stood charged on account of the incident that happened on the same day and then the High Court came to the conclusion that since the gravity of charges was the same, it was not open for the disciplinary authority to impose different punishments for different delinquents. The reasonings given by the High Court cannot be faulted with since the State is not able to indicate as to any difference in the delinquency of these employees.*

*6. It is undoubtedly open for the disciplinary authority to deal with the delinquency and once charges are established, to award appropriate punishment. But when the charges are same and identical in relation to one and the same incident, then to deal with the delinquents differently in the award of punishment, would be discriminatory. In this view of the matter, we see no infirmity with the impugned order requiring our interference under Article 136 of the Constitution.”*



**W.P.(MD)No.7253 of 2020**

Merely because Thiru.N.Dhilipan was relatively inexperienced, that may not be considered as a material circumstance to treat the petitioner differently. Admittedly, the charges are same and identical. They relate to one and the same incident. Therefore, the delinquents cannot be differently dealt with in the matter of award of punishment. As held by the Hon'ble Apex Court, that would amount to discrimination. The said decision was followed by a learned Judge of this Court vide order dated 19.07.2007 in W.P.No.36649 of 2005 (*S.Vellasamy Vs State of Tamil Nadu*). I am inclined to adopt the very same approach. Even while confirming that the charges levelled against the petitioner stood proved, I interfere in the matter of punishment alone. The punishment imposed on the petitioner shall be converted into one of censure. The impugned orders are interfered with to this limited extent.

10. This writ petition is partly allowed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

**19.04.2023**

Index : Yes / No  
Internet : Yes/ No  
NCC : Yes / No  
MGA



W.P.(MD)No.7253 of 2020

To

1. The Secretary to Government,  
Home Department,  
Secretariat,  
Chennai.
2. The Additional Chief Secretary to Government,  
Home (POL-IV) Department,  
Secretariat,  
Chennai.
3. The Director General of Police,  
Tamilnadu,  
O/o. The Director General of Police,  
Chennai.
4. The Additional Director General of Police,  
Law and Order,  
Tamil Nadu,  
Chennai.
5. The Deputy Inspector General of Police,  
Madurai Range,  
Madurai.
6. The Superintendent of Police,  
Virudhunagar District,  
Virudhunagar.



WEB COPY



W.P.(MD)No.7253 of 2020

**G.R.SWAMINATHAN, J.**

MGA

W.P.(MD)No.7253 of 2020  
and  
W.M.P(MD)No.6688 of 2020

19.04.2023