



W.P.(MD)No.10270 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:10.01.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.10270 of 2020
W.M.P(MD).No.9152 of 2020

S.Lakshmanapandidurai

... Petitioner

Vs.

1.The Director General of Police,
O/o.The Director General of Police,
Chennai-4.

2.The Commissioner of Police,
O/o.The Commissioner of Police,
Madurai City.

3.The Deputy Commissioner of Police,
Armed Reserve,
Madurai City.

... Respondents

Prayer:Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, call for the records pertaining to the impugned order in Na.Ka.No.T2(1)/Ta.Pa.No.51/2018 on the file of the third respondent dated 16.04.2019 and the impugned order in C.No.D2(1)/APP.18/2019 on the file of the second respondent dated



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30.05.2019 and the consequential impugned order in Rc.No.394444/APII(3)/2020 dated 19.04.2020 on the file of the first respondent and quash the same as illegal.

For Petitioner : Mr.Aswin Rajasimman
for Mr.T.Lajapathi Roy

For Respondents : Mr.S.P.Maharajan
Special Government Pleader

ORDER

This writ petition has been filed to call for the records pertaining to the impugned order in Na.Ka.No.T2(1)/Ta.Pa.No.51/2018 issued by the third respondent dated 16.04.2019 and the impugned order in C.No.D2(1)/APP.18/2019 issued by the second respondent dated 30.05.2019 and the consequential impugned order in Rc.No. 394444/APII(3)/2020 dated 19.04.2020, issued by the first respondent and quash the same as illegal.



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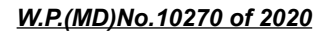
2.The case of the petitioner is that the petitioner is working in the post of Grade I Police Constable under the third respondent Office. On 14.02.2018, the petitioner along with one P.Shanmuganathan and S.Radhakrishnan in connection with the case in Crime No.113/2006 and 08/2017 on the file of NIBCID Police Station, Coimbatore, had taken the prisoner, namely, Mokkaraj to Coimbatore EC Court for extension of remand and had taken him back to Madurai Central Prison. At the time of handing over the prisoner, it was found that the prisoner was hiding 30 gms of ganja in his inner wear. Hence, a criminal case was filed as against the said prisoner. Subsequently, disciplinary proceedings was initiated against the petitioner by the third respondent and he was issued with a charge memo dated 15.08.2018. Aggrieved by the same, the petitioner has submitted a detailed explanation pointing out the discrepancies in the enquiry and the statements made by the prosecution witness. But, without considering the explanation, the third respondent has issued the punishment of postponement of increment for a period of one year without cumulative effect vide impugned order dated 16.04.2019. Aggrieved by the same, the petitioner has preferred an



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appeal before the second respondent on 29.04.2019. However, the second respondent has confirmed the order passed by the third respondent and rejected the petitioner's appeal, against which, a mercy petition/review petition has been filed before the first respondent and the first respondent, without considering the facts, rejected the same. Challenging the orders passed by the Original Authority as well as the Appellate Authority including the Review Authority, the present writ petition has been filed.

3. The learned counsel appearing for the petitioner would submit that during his entire tenure, except this punishment, no other punishment has been awarded. Admittedly, the prisoner was hiding 30 gms of ganja in his inner wear, but the petitioner was not responsible for the same. There were three deutes for escorting the prisoner to Coimbatore EC Court. However, the disciplinary proceedings was initiated only against the petitioner which is not sustainable. Though the punishment of postponement of increment is for a period of one year, it will affect the promotion of the petitioner. In respect of similarly situated



4. The learned Special Government Pleader appearing for the respondents would submit that the present writ petition has been filed only on the ground that disciplinary proceedings was not initiated against the similarly situated persons who had gone along with the prisoner to escort the prisoner to the Court. In fact, the disciplinary proceedings was initiated against the similarly situated persons and a show cause memo was issued as against them. Hence, he prays for dismissal of the present writ petition.

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6. The facts in the present case are not in dispute. Admittedly, the petitioner is working in the disciplined force. The petitioner and two other police Constables had taken the prisoner to Coimbatore EC Court for extension of remand. At the time of handing over the prisoner, it was found that the prisoner was in possession of 30 gms of ganja in his inner wear. Thereafter, the disciplinary proceedings were initiated against the petitioner and other two officials. After enquiry, the punishment was imposed against them. Further, the petitioner has not raised any ground with regard to the procedure adopted by the Disciplinary Authority and the fullest opportunity was given to the petitioner. Thereafter, the concerned Authority has drawn the minute and based on the proven minute, the third respondent has passed the punishment of postponement of increment for a period of one year without cumulative effect and the said order was confirmed by the Appellate Authority. In view of the decision of the Hon'ble Apex Court in the case of ***Prem Nath Bali vs. Registrar, High Court of Delhi and others reported in 2015(16) SCC 415***, unless it is proved that the punishment imposed by the Original Authority against the delinquent employee is wholly unreasonable, the



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decision of the Original Authority and the Appellate Authority cannot be interfered with by this Court. However, this order will not stand on the way of the respondents to award promotion to the petitioner, if the currency of the punishment is over.

7. Accordingly, this Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is also closed.

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NCC:Yes/No
Index:Yes/No
Internet:Yes/No
ssb

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M.DHANDAPANI,J.

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