



W.P.(MD) No.2999 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.09.2023

CORAM:

THE HONOURABLE Mr.JUSTICE BATTU DEVANAND

W.P.(MD) No.2999 of 2019

K.Subramanian

.. Petitioner

Vs.

1.The Additional Chief Secretary to Government,
Home (Police VI) Department,
Secretariat, Chennai.

2.The Deputy Inspector General of Police,
Office of the Deputy Inspector General of Police,
Tirunelveli Range, Tirunelveli District.

3.The Superintendent of Police,
Tirunelveli District.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorari calling for the impugned order in G.O.(D) No.1255 Home (Police VI) Department dated 31.10.2018, on the file of the 1st respondent confirming the order passed by the 2nd respondent in R.C.No.108750/AP 2(1)/2014 dated 19.11.2016 modifying the order passed by the 3rd respondent in 'F' order dated 08.11.2012 and to quash the same.



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For Petitioner : Ms.P.Jessi Jeeva Priya
For Respondents : Mr.P.Subbaraj
Special Government Pleader

ORDER

Heard the learned counsel for the petitioner and Mr.P.Subbaraj, learned Special Government Pleader appearing for the respondents and perused the material available on record.

2. Learned counsel for the petitioner submits that the petitioner was appointed as Grade-II Police (No.1292) Constable and upgraded as Grade-I Police Constable. While he was working as Grade-I Police Constable at V.K.Puram Police Station, Tirunelveli District, he was suspended by the 2nd respondent *vide* proceedings dated 21.01.2012 stating that a grave charge is pending and enquiry against him in connection with Crime Nos.27 to 36 of 2012, which were registered under Section 12 of the Tamil Nadu Gaming Act on the file of the Courtallam Police Station.



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3. Learned counsel would submit that thereafter, charge memo has been issued by the 3rd respondent in his proceedings dated 08.02.2012 framing two charges. After conducting enquiry, the 3rd respondent issued proceedings on 08.11.2012 and awarded punishment of removal from service from the date of order. In appeal filed by the petitioner, the 2nd respondent modified the punishment of removal from service into that of punishment of postponement of increments for three years with cumulative effect by taking him back for duty, by order dated 10.02.2013.

4. Learned counsel further submits that subsequently, the petitioner was acquitted in S.T.C.No.38/2012 on the file of the Judicial Magistrate, Shenkottai by judgment dated 17.01.2014. Thereafter, the petitioner submitted a mercy petition to the Director General of Police, Tamil Nadu, dated 14.05.2016 with a request to quash the modified order of punishment dated 10.02.2013, in the light of the judgment dated 17.01.2014 in S.T.C.No.38/2012. The plea of the petitioner was rejected



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by the Director General of Police, Tamil Nadu, by his proceedings in R.C.No.108750/AP 2(1)/2014, dated 19.11.2016 stating that the acquittal is only on technical grounds and cannot be a reason to quash the disciplinary proceedings. The petitioner has submitted another mercy petition before the 1st respondent. The same was also rejected by the 1st respondent *vide* G.O.(D) No.1255, Home (Police VI) Department, dated 31.10.2018. Aggrieved by the same, the present writ petition is filed.

5. A counter affidavit is filed on behalf of the respondents.

6. The learned Special Government Pleader appearing for the respondents submits that though the petitioner was acquitted in the criminal case, he was acquitted on benefit of doubt and therefore, it would not amount to honourable acquittal. The learned Special Government Pleader further contends that the 1st respondent and the Director General of Police, Tamil Nadu, after careful consideration of the mercy petitions submitted by the petitioner, rejected the same, which are in accordance with law and sought to dismiss the writ petition.



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7. Having heard the submissions of the respective counsels and upon perusal of the material available on record, particularly on careful examination of the order impugned in this writ petition, it appears that the 1st respondent without assigning any reasons, rejected the petition submitted by the petitioner.

8. In the impugned Government Order in G.O.(D) No.1255, Home (Police VI) Department, dated 31.10.2018, except noting down the facts of the issue, there is no mention in the said order with regard to the grounds raised by the petitioner at the time of submitting the mercy petitions were considered.

9. It is settled law that any order passed without assigning reasons is unsustainable under law.

10. For the above mentioned reasons, in the considered opinion of this Court, without going into the merits of the case, it is appropriate to



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remit the matter back to the 1st respondent for fresh consideration to meet the ends of justice.

11. Accordingly, this Writ Petition is allowed with the following directions:

- i. The order impugned in this writ petition in G.O.(D) No.1255, Home (Police VI) Department, dated 31.10.2018 is hereby set aside; and
- ii. The matter is remitted back to the 1st respondent for fresh consideration and to pass orders afresh in accordance with law within a period of six weeks from the date of receipt of a copy of this order.

12. There shall be no order as to costs.

04.09.2023

NCC : Yes/No

Index : Yes/No

Internet : Yes

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To

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BATTU DEVANAND, J.

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