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W.P.(MD)No.18343 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.06.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.18343 of 2019
and
W.M.P.(MD)No.14772 of 2019

P.Radhakrishnan

... Petitioner

VS.

- 1.The Director General of Police,
Office of the Director General of Police,
Chennai-4.
- 2.The Additional Director General of
Police (L & O),
Office of the Additional Director
General of Police (L & O),
Chennai-4



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3.The Deputy Inspector General of
Police -In-Charge,
Office of the Deputy Inspector General
of Police -In-Charge ,
West Zone, Coimbatore Range,
Coimbatore.

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

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records pertaining to the impugned order in Na.Ka.No.T1/7709/2017, Tha.Pa.No. T1/Tha/Pa.10/2017 on the file of the respondent No.3, dated 12.09.2017 and the impugned order in Rc.No.14500/A2(1)/2018 on the file of the respondent No.2, dated 14.05.2019 and the consequential impugned order in Rc.No.168242/AP.2(1)/2018 on the file of the respondent No.1, dated 29.11.2018 and to quash the same as illegal.

For Petitioner : Mr.G.Karthik
for M/s.Lajapathi Roy & Associates
For Respondents : Mr.R.Suresh Kumar
Additional Government Pleader



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ORDER

This writ petition is filed writ of Certiorari, to quash the impugned order, dated 12.09.2017 on the file of the 3rd respondent and the impugned order dated 14.05.2019 on the file of the 2nd respondent and the consequential impugned order dated 29.11.2018 on the file of the 1st respondent.

2. The petitioner was posted as Police Constable Grade II on 01.08.1984. Subsequently, he was promoted to various posts. While he was working as Sub Inspector of Police, Kallidaikurichi, a charge memo in P.R.No.38 of 2016 was served on the following two counts:

“Gross neglect of duty in having failed to register a case against Tr.V.Manikandan on the complaint petition of one Jain Natarajan presented before him on 04.09.2014 at 22.30 hours and simply treated it as CSR No.672 of 2014 of Vadasery P.S. Even though the ingredients of the complaint petition attracted cognizable offences.



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ii) Highly reprehensible conduct in having demanded Rs.10,000/- on 04.09.2014 and subsequent dates from the complainant for the purpose of registering a case on her complaint presented before him on 04.09.2014 at 22.30 hours on Vadasery P.S. And thereby besmeared the reputation of the disciplined force.”

3. Based on the above said two charges, an oral enquiry was conducted. In the meantime, the petitioner was transferred to nearby district and the P.R. file was sent to the 3rd respondent.

4. The contention of the petitioner is that the minutes was drawn based on the presumptions, is no evidence against the bribery. The respondents failed to consider that originally the complainant has preferred a complaint for which the petitioner has immediately given the CSR receipt and the dispute was only a neighbourhood quarrel. Therefore, after getting an undertaking from the neighbour, the said



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complaint was placed before the Inspector of Police for further action.

5. The further contention of the petitioner is that the 2nd respondent has simply rejected the appeal petition without even stating any reasons for rejection and it is a cryptic non speaking order. Under Rule 6 of Tamil Nadu Subordinate Services (Discipline and Appeal) Rules, it has been stated that the appellate authority ought to discuss each and every point before passing order. Since the respondents failed to do so, the petitioner has filed the present writ petition.

6. The 4th respondent has filed a counter affidavit stating that the complainant namely Jain Natarajan preferred a complaint against the petitioner in the Vigilance and Anti-Corruption for demanding bribe. The enquiry was conducted by the appropriate authority and the report states that the delinquency was committed by the petitioner. Hence, the



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Government directed to initiate direction as per G.O.(3D)No.67, Home (Police VI) Department, dated 09.12.2015. Thereafter, the enquiry officer was appointed. After the enquiry, a punishment of postponement of increment for two years with cumulative effect was awarded. The enquiry made by the appropriate authority and the report sent by the authority reveals that the delinquent has committed the offence. After full -fledged oral enquiry, the minutes was drawn by holding the charges are proved and the punishment imposed. Since the punishment was imposed by following rules and regulations after granting opportunity to the petitioner, the same cannot be interfered and prayed to dismiss this writ petition.

7. Heard Mr.G.Karthik, learned Counsel appearing for the petitioner and Mr.R.Suresh Kumar, learned Additional Government Pleader appearing for the respondents and perused the records.



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8. The 1st contention of the petitioner is that the complainant had preferred a complaint which is only a neighbourhood dispute. Therefore, the petitioner has given a CSR receipt, but the complainant kept on demanding to register FIR. But the petitioner submitted that since cognizable offence was not made out, FIR was not filed immediately. Since the complainant did not get to file FIR, the complainant has alleged that the petitioner demanded bribe for registering the FIR. Even though the complainant has appeared before the enquiry officer and submitted that the petitioner has demanded bribe, there is no independent evidence to prove the petitioner demanded the bribe.

9. In the counter affidavit it has been stated that the enquiry made by the appropriate authority and the report sent by the authority reveals that the delinquency is committed by the petitioner, hence the respondents themselves had forwarded the complaint to the Vigilance



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and Anti-Corruption. But after enquiry by the Vigilance officials, they had not filed any bribery case or criminal case against the petitioner, which would indicate that the bribery case was not made out. If bribery has been committed by the petitioner, then Vigilance and Anti-Corruption would have taken appropriate action. In the present case, they have not taken any action. It is pertinent to note one more aspect, if the petitioner had demanded bribe, the respondents would have imposed major punishment. On taking all these factors into consideration, this Court is of the considered opinion that the allegation made against the petitioner is a mere allegation and it has not been proved as known to law, then the impugned punishment ought to be interfered with.

10. However, the learned Additional Government Pleader appearing for the respondents objected to interfering in the punishment by stating that since the petitioner is in Police service, he has to maintain



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utmost integrity and the allegation has to be taken seriously. Therefore, the respondents have imposed minor punishment and the punishment is not disproportionate. The said contention of the Learned Additional Government Pleader is rejected, because even though the principle of preponderance of probability is applicable for domestic enquiry, then also some independent evidence is necessary to prove the allegation. In the present case when there is no acceptable evidence, then the punishment ought to be interfered with.

11. Under Rule 6 of Tamil Nadu Subordinate Services (Discipline and Appeal) Rules, it has been stated that the appellate authority ought to pass a detailed order by rendering finding for each and every ground raised. In the appeal, the appellate authority has not discussed each and every point which the petitioner has raised, but has passed cryptic order with only three lines. On this ground also, the petitioner is entitled to



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relief.

12. Therefore this Court is inclined to remit the case to the appellate authority for passing order after considering the case of the petitioner. But it is seen from the records that the petitioner was 57 years at the time of filing this writ petition and has already retired from service on 31.05.2023, hence at this stage remitting the case is unnecessary. Therefore, this Court is of the considered opinion that if the punishment is modified then that would meet the ends of justice. Hence, the punishment is modified as stoppage of increment for one year without cumulative effect. The said punishment shall be modified and implemented within a period of eight weeks from the date of receipt of a copy of this order. If the terminal benefits are not paid, the same shall be paid to the petitioner.



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13.With the above said observation, the writ petition is allowed.

No costs. Consequently, connected miscellaneous petition is closed.

Index : Yes / No

07.06.2023

Internet : Yes

NCC : Yes / No

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To

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S.SRIMATHY, J

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