



W.P.(MD)No.6820 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.02.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

**W.P.(MD)No.6820 of 2018
and
W.M.P.(MD)No.6533 of 2018**

K.Meenatchi Sundaram,
S/o.Karuppasamy,
Grade-I Police Constable No.2434,
E-4 Government Rajaji Hospital,
Madurai.

... Petitioner

Vs.

1. The Director General of Police,
Office of the Director General of Police,
Chennai.
2. The Commissioner of Police,
Madurai City,
Madurai.
3. The Deputy Commissioner,
Law and Order,
Madurai City,
Madurai.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India



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praying for issuance of Writ of Certiorari, calling for the records pertaining to the impugned order passed by the first respondent in R.C.No. 193598/AP2(3)/2016, dated 13.08.2017 confirming the order dated 30.06.2015 in Appeal C.No.D1(1)/Appeal-19/2015 made by the second respondent confirming the order passed by the third respondent in his proceedings in P.R.No.130 of 2014, dated 27.02.2015 and quash the same as illegal and for other reliefs.

For Petitioner : Mr.J.Lawrance

For Respondents : Mr.G.V.Vairam Santhosh
Additional Government Pleader

ORDER

The petitioner has come up with this Writ Petition seeking to quash the impugned order passed by the Disciplinary Authority, as confirmed by the Appellate and the Revisional Authorities.

2. The case of the petitioner is that he was appointed as a Secondary Grade Police Constable with effect from 01.03.2002 and thereafter, he was promoted as Grade-I Police Constable. On 01.10.2014, the third respondent through his proceedings in P.R.No.130 of 2014 has placed the petitioner under suspension and the charge memo was also issued



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under Rule 3(b) of the Tamil Nadu Police Subordinate Services (Discipline and Appeal) Rules, 1955 for alleged delinquency in service.

3. The sum and substance of the charge memo is as follows:

"While he was working in the Police Department, he introduced one Poonkodi who was Prostitute by profession and taking advantage of her profession and poverty, to one Siddiq who was an accused in a criminal case in Crime No.901 of 2014 for offences under Sections 364(A) @ 147, 148, 364 (a) 120 (b) and 302 of IPC and obtained commission from the said Poonkodi and thereby committed misconduct bringing indiscipline to the Police Department."

4. The third respondent has appointed an Enquiry Officer, i.e., Assistant Commissioner of Police, Crime, Madurai City and the petitioner has also given detailed explanation. After such enquiry, the Enquiry Officer has given a report stating that the charge was proved and stated that even though he introduced Siddiq to Poonkodi, he did not get any commission or money except he got recharged his cellphone. Thus, the Enquiry Officer submitted the report on 13.02.2015 stating that the alleged charge was proved. Based on the such report, the third respondent issued a proceedings



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dated 18.02.2015 calling upon the petitioner for his further explanation.

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Accordingly, the petitioner has submitted detailed explanation denying the allegations and also requested to drop further proceedings. But the third respondent without advertng to the materials and evidence on record, by his proceedings dated 27.02.2015 imposed the punishment of stoppage of three years increment without cumulative effect. Aggrieved over the same, the petitioner has filed an Appeal before the second respondent in Appeal C.No.D1(1)/Appeal. But the second respondent vide order dated 30.06.2015 without considering the merits of his Appeal, simply rejected the same stating that 'the punishment imposed is not excessive', as against which, he preferred a Revision Petition before the first respondent. But the first respondent has also passed an order of rejection dated 13.08.2017 that the petitioner did not produce any documents to prove his case. Hence, the present Writ Petition has been filed.

5. The learned counsel appearing for the petitioner would submit that admittedly the said Poonkodi is not known to the petitioner, in fact the said Poonkodi had relationship with Siddiq and both have kidnapped Jamal



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Mohammed, who was a rich man doing real estate business and murdered him, for which, the Law Enforcing Agency has registered a case against them by the Thallakulam Police Station in Crime No.901 of 2014 under 'Man Missing'. The petitioner is no way connected with the said Poonkodi and Siddiq and inflicting a disciplinary proceedings against the petitioner is unsustainable and the order of punishment is highly disproportionate, which necessarily has to be interfered with. Hence, he prayed for allowing the Writ Petition.

6. The learned Additional Government Pleader appearing for the respondents would submit that after receiving a detailed preliminary enquiry report only, the petitioner was issued with charge memo. On the basis of the charge memo, the Enquiry Officer was appointed and he has submitted a minute after examining and cross examining the necessary witnesses as such charges proved. The main witness Poonkodi was examined in chief and cross and the other official witnesses, i.e., Inspector of Police, namely, Illavarasu and Suresh were examined in chief and they were not cross examined by the petitioner. They had also given evidence against the



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petitioner. It is not true as alleged by the petitioner that the official witnesses did not whisper anything against him. He further stated that the Enquiry Officer had conducted the enquiry in a non-biased manner and filed a report in accordance with fact and law. On the basis of the enquiry report, further explanation submitted by the petitioner and other connected records and considering the grave nature of the charges, the third respondent had rightly awarded the punishment to the petitioner. The Appellate Authority and Revisional Authority have also rightly dismissed the Appeal and the Revision Petition preferred by the petitioner as devoid of merits and the punishment imposed is not excessive. Hence, he prayed for dismissal of the Writ Petition.

7. Heard the learned counsel appearing for the parties and perused the materials placed before this Court.

8. The facts in the present case are not in dispute. While the petitioner was working as Grade-I Police Constable at D2 Sellur Law and



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Orders PS, the Inspector of Police, D1-Tallakulam Law and Order PS, Madurai City had sent a report dated 15.09.2014 to the Commissioner of Police, Madurai City stating that the investigation revealed that the petitioner has introduced the said Poonkodi to the accused Siddiq who was involved in Crime No.901 of 2014 of D1-Tallakulam PS for the offences punishable under Section Man Missing @ 147, 148, 364(A), 120(b), 302 IPC. In the above said case, the Poonkodi has helped the accused Siddiq in abduction and murder of Jamal Mohammed. Based on the instructions of the Commissioner of Police, Madurai City, the Assistant Commissioner of Police, Tallakulam Law and Order Range has conducted a detailed enquiry and submitted a report dated 26.09.2014 stating that the petitioner is having illicit affair with Poonkodi and introduced her with his neighbors for prostitution with conditions to give him on share received from the customers. Based on the said report, the Deputy Commissioner of Police, Madurai City in his proceedings dated 01.10.2014 has placed him under suspension with immediate effect. The Enquiry Officer has conducted an oral enquiry by examining four witness (PW1 to PW4) and marked 9 exhibits. The petitioner was given opportunity to cross examine all the



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witnesses, but he has cross examined only PW1-Poonkodi and other official witnesses were not cross examined by him. Thereafter, the Enquiry Officer has prepared a minute against the petitioner and the same has been submitted to the Deputy Commissioner of Police, (Law and Order), Madurai City holding that the charges against the delinquent as proved.

9. Before proceeding to analyse the facts of the present case to find out whether the punishment awarded to the petitioner is just and reasonable, the ratio laid down with regard to matters in which punishment has been imposed, which is impugned in this Writ Petition.

10. It has been the consistent view of the Courts that it is always within the domain of the appointing authority to decide on the punishment to be imposed on the delinquent, which should be proportionate to the act of the delinquent. Only when the punishment is disproportionate and shocking to the conscience, should the courts interfere with the same in exercise of powers under Article 226 of the Constitution. In ***Prem Nath Bali – Vs - High Court of Delhi***, reported in **2015 (16) SCC 415**, the Hon'ble Supreme



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Court held as under :-

“20. It is a settled principle of law that once the charges levelled against the delinquent employee are proved then it is for the appointing authority to decide as to what punishment should be imposed on the delinquent employee as per the Rules. The appointing authority, keeping in view the nature and gravity of the charges, findings of the inquiry officer, entire service record of the delinquent employee and all relevant factors relating to the delinquent, exercised its discretion and then imposed the punishment as provided in the Rules.

21. Once such discretion is exercised by the appointing authority in inflicting the punishment (whether minor or major) then the courts are slow to interfere in the quantum of punishment and only in rare and appropriate case substitutes the punishment. Such power is exercised when the court finds that the delinquent employee is able to prove that the punishment inflicted on him is wholly unreasonable, arbitrary and disproportionate to the gravity of the proved charges thereby shocking the conscience of the court or when it is found to be in contravention of the Rules. The Court may, in such cases, remit the case to the appointing authority for imposing any other punishment as against what was originally awarded to the delinquent employee by the appointing authority as per the Rules or



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may substitute the punishment by itself instead of remitting to the appointing authority.”

(Emphasis Supplied)

11. The Disciplinary Authority has elaborately considered the issue and passed the punishment of stoppage of three years increments without cumulative effect as against the petitioner and the same was confirmed by the Appellate Authority and the Revisional Authority. The petitioner being part of the disciplinary force, having contact with Poonkodi, helped her by introducing his neighbours for indulging in prostitution and received a commission from her and thereby has tainted the image of the Police force. The allegation made against the petitioner is a serious one and however, the punishment imposed by the Disciplinary Authority which was confirmed by the Appellate Authority and the Revisional Authority is very minimum. The punishment imposed on the petitioner is also just and reasonable considering the nature of delinquency and no sympathy can flow from this Court for the act of the petitioner. Therefore, the punishment imposed on the petitioner is no way shocking to the conscience of this Court or disproportionate to the delinquency and,



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therefore, this Court is not inclined to interfere with the same.

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12. For the reasons aforesaid, this Writ Petition is devoid of merits and, accordingly, the same is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

27.02.2023

NCC: Yes / No
Index : Yes / No
Speaking Order : Yes / No

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