



W.P.(MD) No.9331 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 21.02.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD) No.9331 of 2018
and WMP(MD) No.8626 of 2018

K.Selvakumar

... Petitioner

-VS-

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

2.The Additional Director General of Police,
(Law and Order)
Chennai 4.

3.The Deputy Inspector General of Police,
Tirunelveli Range,
Tirunelveli.

... Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari to call for the records pertaining to the impugned order in Na.Ka.No.C1/10842/2014 dated 19.09.2016 on the file of the respondent No.3 and the impugned order in R.C.No.194603/AP2(1)/2016 dated 01.04.2017 on the file of the respondent No.2 and the consequential impugned order in RC No.

1/10 _____
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85287/AP2(1)/2017 dated 01.12.2017 on the file of the respondent No.1
and quash the same as illegal.

For Petitioner : Mr.T.Aswin Rajasimman for
M/s.T.Lajapathi Roy Associates

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

ORDER

Seeking to quash the impugned order dated 19.09.2016, 01.04.2017 and 01.12.2017 of the respondents 3, 2 and 1 respectively, the petitioner is before this Court with this writ petition.

2. The case of the petitioner is that he was working as Head Constable at Surandai Police Station. While he was working at the Tenkasi Police Station, he was issued with a charge memo on 11.04.2014 by the third respondent stating that the bus warrants were gone missing. Pursuant to the missing of the bus tickets, a case in Crime No.282/2014 was registered on 11.07.2014 and investigation was conducted. Since the petitioner was on duty on the said date of missing, an enquiry into the charges was contemplated and upon conducting enquiry, the petitioner



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was issued with a punishment of stoppage of increment for a period of two years with cumulative effect by the third respondent. On appeal to the 2nd respondent, the said punishment was modified to the effect that stoppage of increment for two years without cumulative effect, ie., which shall not operate to postpone his future increments. The said order, which is also impugned herein, is only a cryptic and non speaking order. Further appeal to the first respondent was also rejected on 01.12.2017. Challenging these orders, the petitioner is before this Court.

3. The learned counsel for the petitioner would submit that the present impugned orders are liable to be interfered with on the following grounds:

(a) The charge against the petitioner is cryptic and no serious allegation was made against the petitioner;

(b) The punishment imposed is disproportionate to the charges. When the charge is minor and the punishment of stoppage of two increments without cumulative effect is disproportionate and illegal;



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(c) The enquiry report was not even furnished to the petitioner enabling the petitioner to putforth his explanation to the disciplinary authority as well as the appellate authority;

(d) Further the appellate authority has passed a cryptic order without analyzing any of the merits of the case, he modified the punishment imposed to that of stoppage of increment for two years without cumulative effect.

4. The learned Additional Government Pleader, by relying upon the counter affidavit, would submit that after full-fledged enquiry, the enquiry officer has drawn a proven minute and based on the said proven minute, the punishment of stoppage of increment for two years with cumulative effect was awarded. It is averred in the counter that subsequently, on appeal, the 2nd respondent has considered the case of the petitioner and modified the punishment to that of stoppage of increment for two years without cumulative effect and again on mercy petition, the first respondent had considered all the points raised therein and rightly rejected the petition. He would further contend that after following due



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procedure and principles of natural justice, the punishment was imposed, which cannot be interfered with and prays for dismissal of the writ petition.

5. Heard the learned counsel for the petitioner and the learned Additional Government Pleader appearing for the respondents and perused the materials available on record.

6. 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 in the same in exercise of powers under Art. 226 of the Constitution. In Prem Nath Bali – Vs - High Court of Delhi (2015 (16) SCC 415), the Hon'ble Supreme 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



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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 may substitute the punishment by itself instead of remitting to the appointing authority.” (Emphasis Supplied)



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7. True it is that the records reveal that the respondents have followed the procedure contemplated for proceeding with the disciplinary enquiry by serving the petitioner duly. The disciplinary authority imposed the punishment of stoppage of increment for two years without cumulative effect, which was subsequently modified by the appellate authority, which has received the seal of approval from the revisional authority by rejection of the petitioner's mercy petition.

8. Coming to the facts of the case, it is the petitioner, who was on duty when the alleged missing of bus warrants taken place. It is the case of the respondents that charges under Rule 3(B) of the Tamil Nadu Police Subordinate Service (Discipline and Appeal) Rules, 1955 were framed to the effect that the petitioner was responsible for the missing of seven bus warrants and in collusion with the women Sub Inspector of Police, viz., Praveena. It is their further case that the petitioner formed a group against one Sarasaiyan, who was the Special Sub Inspector of Police and in the place of Sarasaiyan, the petitioner was posted on deputation and on deputation, the alleged missing of tickets had taken



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place and hence, the charge. To prove the charge, the department examined as many as 6 witnesses were examined and 13 witnesses were exhibited and upon conclusion of the enquiry, the charges were proved against the delinquent and hence, the punishment as stated supra came to be passed against him. Hence, the principles of natural justice is not violated. The petitioner was given ample opportunity to put-forth his case and on explanation given by the petitioner, not being satisfied with the said explanation, the enquiry was contemplated and upon conclusion, the punishment imposed, which was modified by the appellate authority and confirmed by the revisional authority on mercy petition.

9. Considering the factual matrix as a whole and on the basis of the materials available on record, this Court is of the considered view that the punishment of stoppage of increment for two years without cumulative effect imposed on the petitioner is not stated to be disproportionate to the charges framed. It is also to be borne in mind that the manner in which the enquiry being conducted by the authorities and in the manner in which the authorities exercised their power for imposing punishment are all not disputed. Therefore, no interference is warranted



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to the punishment imposed by the disciplinary authority, modified by the appellate authority and rejected by the revisional authority. Accordingly, the writ petition fails and the same is dismissed. No costs. Consequently connected Miscellaneous Petition is closed.

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NCC : Yes/No

Index : Yes/No

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M.DHANDAPANI, J.

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