



W.P.(MD)No.854 of 2015

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.01.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.854 of 2015

and

W.M.P(MD)No. 3667 of 2017

K.Govindasamy

... Petitioner

Vs.

- 1.The Commissioner of Police,
Tirunelveli City,
I/c. The Deputy Inspector General of Police,
Tirunelveli Range, Tirunelveli.
2. The Superintendent of Police,
Tirunelveli District,
Tirunelveli.
3. The Superintendent of Police,
Kanyakumari District, Nagercoil.
4. S.Sivanesan,
Enquiry Officer and Deputy Superintendent
of Police,
District Crime Branch,
Tirunelveli District,
Tirunelveli.



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5. M.Vigneswaran,
Inspector of Police,
Armed Reserve, Tirunelveli.

... Respondents

6. S. Rajagopal,
Preliminary Enquiry Officer and
Deputy Superintendent of Police,
Armed Reserve,
Tirunelveli District, Tirunelveli.

...6th Respondent/proposed
6th respondent

[6th respondents is added as per order of this Court, dated 09.01.2023].

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of *Writ of Certiorari*, to call for the records relating to the order C.No.C4/AP.59/2014 dated 01.12.2014 passed by the 1st respondent and quash the same.

For Petitioner : No appearance

For R-1 to R-3 : Mr.D.Muruganandham
Additional Government Pleader

ORDER

This writ petition is filed challenging the punishment order, wherein the original authority has imposed punishment of stoppage of increment for two years with cumulative effect. Aggrieved over the same the petitioner has preferred an appeal before the Appellate authority, wherein the Appellate authority has reduced the punishment stoppage of increment without cumulative effect.



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2. There is no appearance on the side of the petitioner. Heard Mr.D.Muruganandham, learned Additional Government Pleader appearing for the respondents 1 to 3. Perused the material documents available on record.

3. It is seen from the records that the first charge against the petitioner is, he has refused to receive the transfer order issued by the Superintendent of Police, Tirunelveli. Subsequently, the petitioner again acted disobediently by not receiving the Radio Message as well as refused to receive the charge memo, dated 07.07.2012. Thereafter, the petitioner has received the charge memo on 26.11.2012 and has submitted his explanation.

4. The second charge is that the petitioner did not receive radio message, for this, the petitioner has submitted an explanation that the radio message is not received at all. The time has been inserted that the radio messages were issued at 9.00 hrs., and hence, the radio message is only creation and the allegation against the petitioner is that in spite of radio message he did not respond is wrong.



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5. The allegation against the petitioner in charge No.3 is that he has refused to receive the charge memo, dated 07.07.2012. The petitioner has submitted an explanation that it was not served to him at all.

6. As far as the charges are concerned, the petitioner has submitted that the respondent have not given any notice to the petitioner for submitting his defence before the departmental enquiry. As far as the departmental enquiry is concerned, the respondents are to bound to issue notice to the delinquent. The respondents are bound to grant opportunity to peruse the records, exam the witness etc. Since the respondents have not conducted the enquiry properly, there is violation of principles of Natural Justice. It is seen from records that the Appellate authority had reduced the punishment.

7. Therefore, considering all the facts and circumstances of the case, this Court is inclined to reduce the punishment as stoppage of increment for three months without cumulative effect.



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8. With the above observations, this Writ Petition is disposed of. No

Costs. Consequently, W.M.P(MD)No. 3667 of 2017 petition is allowed.

Index : Yes / No
Internet : Yes
ksa

09.01.2023

To

- 1.The Commissioner of Police,
Tirunelveli City,
I/c. The Deputy Inspector General of Police,
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Tirunelveli.
2. The Superintendent of Police,
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S.SRIMATHY, J

ksa

**Order made in
W.P.(MD)No.854 of 2015**

09.01.2023