



WEB COPY



W.P.No.280 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.09.2024

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Writ Petition No.280 of 2023
& WMP No.270 of 2023

J.Josefa

.... Petitioner

-Vs-

1.The Commandant
TSP II Battalion
Avadi, Chennai-54.

2.The Assistant Commandant/Enquiry Officer
TSP II Battalion, Avadi, Chennai-54.

3.The Deputy Inspector General of Police
Armed Police, Chennai-10

4.The Addl. Director General of Police
Armed Police, Chennai-10.

.... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari calling for the records of the respondents in connection with the impugned order passed by 1st respondent in connection with P.R.No.8 of 2021 dated 7.12.2021 and enhanced by the 3rd respondent vide proceedings in C.No.C1/SMR-10/2022 dated 30.05.2022 and quash the same.

For Petitioner : Mr.K.Venkataramani
Senior Counsel
for Mr.M.Muthappan

For Respondents : Mr.P.Balathandayutham
Special Government Pleader



W.P.No.280 of 2022

ORDER

This writ petition has been filed challenging the impugned proceedings of the 1st respondent dated 07.12.2021 and the subsequent proceedings of the 3rd respondent dated 03.05.2022 enhancing the punishment imposed against the petitioner.

2.The case of the petitioner is that he was serving as Halvidar at TSP II Battalion, Avadi. He was transferred from there to Thiruvallur as Assistant Drill Instructor on 29.05.2020. The petitioner had put in nearly 19 years of service.

3.On 31.05.2021, a charge memo came to be issued against the petitioner. The charges against the petitioner is that while serving as the Assistant Drill Instructor, he had information about a Woman Training Constable, who was in possession of cell phone and was using the same. The petitioner failed to prevent her from using the cellphone. The second charge was that the petitioner had sent obnoxious/unwanted messages to the Woman Constable trainee and developed personal intimacy.

4.After the charge memo was issued, an enquiry officer was appointed and the enquiry report was submitted.

5.The 1st respondent found that the charges have been proved and passed an order on 07.12.2021, awarding punishment of 'Deferred Black Mark' for a period of



W.P.No.280 of 2022

three months.

WEB COPY

6.The petitioner did not file any appeal against this order. However, the 3rd respondent exercised suo motu power under Rule 15(A)(i)(iii) of the Tamil Nadu Police Subordinate Service [Discipline & Appeal] Rules 1955 and reopened the case. Ultimately, the 3rd respondent through impugned proceedings dated 30.05.2022, enhanced the punishment from 'Deferred Black Mark' for three months to a punishment of a 'Black Mark'. Aggrieved by the same, the present writ petition has been filed before this Court.

7.The 1st respondent has filed a counter affidavit. The 1st respondent has taken a stand that the charges against the petitioner has been proved during the enquiry. However, it was found that a lesser punishment has been imposed against the petitioner. Therefore, the 3rd respondent in exercise of his powers under the relevant rules enhanced the punishment considering the fact that the petitioner belongs to disciplined force. Hence, it is stated that a lenient view cannot be taken in cases of this nature and the appropriate punishment must be imposed against the petitioner. Accordingly, the respondents have sought for the dismissal of this writ petition.

8.Heard Mr.K.Venkataramani, learned Senior Counsel for the petitioner and Mr.P.Balathandayutham, learned Special Government Pleader for the respondents.



W.P.No.280 of 2022

9.The short issue that arises for consideration in the present case is as to whether the disciplinary proceedings initiated against the petitioner and the punishment imposed is liable to be interfered by this Court.

10.Insofar as the charges against the petitioner, it is seen that the petitioner has been given sufficient opportunity by the enquiry officer and the enquiry officer came to a conclusion that the charges have been proved. This finding of the enquiry officer does not suffer from any illegality and the same has been properly appreciated by the respondents. Hence, this Court is not inclined to interfere with the finding against the petitioner with respect to the charges that has been held to be proved.

11.The 1st respondent has imposed a punishment of 'Deferred Black Mark' for a period of three months. However, the 3rd respondent by initiating suo motu power has enhanced the punishment into one of 'Black Mark' through proceedings dated 30.05.2022. The 3rd respondent has exercised powers under Rule 15(A)(i)(iii) of the Tamil Nadu Police Subordinate Service [Discipline & Appeal] Rules 1955. When this power is exercised by the 3rd respondent, the 3rd respondent has to necessarily render a finding as to why the punishment that was imposed by the 1st respondent is not commensurate with the nature of charges that was held to be proved by the enquiry officer. The 3rd respondent ought to have specifically dealt with the issue



W.P.No.280 of 2022

regarding the punishment imposed by the 1st respondent and must have given a specific finding as to why he is interfering with the same and enhancing the punishment. There is absolutely no reason assigned in the impugned order dated 30.05.2022 and the only reason that has been given in the impugned order is extracted hereunder:

07.Though all the delinquencies we clearly proved from the prosecution witnesses and documents, considering his clean defaulter sheet for the past 19 years and his future service in this department. I enhance the punishment of “Deferred Black mark for three months' imposed against him into that of “Black Mark”.

12.When an order is put to challenge, the Court will be able to assess the application of mind only by going through the reasons assigned in the order. If there are no reasons found in the order, that by itself will be a ground for interfering with the order passed by the authority. Useful reference can be made to the judgment of the Apex Court in **Mohinder Singh Gill and Another v. Chief Election Commissioner, New Delhi and Others** reported in **AIR 1978 SC 851**.

13.The impugned order passed by the 3rd respondent enhancing the punishment require the interference of this Court since the punishment has been enhanced without assigning any reasons. As a consequence, the order passed by the



W.P.No.280 of 2022

1st respondent dated 07.12.2021, alone is sustained.

WEB COPY

14.In the result, this writ petition is partly allowed in the above terms. No costs. Consequently, connected miscellaneous petition is closed.

24.09.2024

Index : Yes/No
NCS : Yes/No
KP

To



W.P.No.280 of 2022

1.The Commandant
TSP II Battalion
Avadi, Chennai-54.

2.The Assistant Commandant/Enquiry Officer
TSP II Battalion
Avadi, Chennai-54.

3.The Deputy Inspector General of Police
Armed Police
Chennai-10

4.The Addl. Director General of Police
Armed Police
Chennai-10.

N.ANAND VENKATESH, J.

KP



WEB COPY



W.P.No.280 of 2023

W.P.No.280 of 2023

24.09.2024