



W.P.No.12313 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **30.08.2024**

CORAM

**THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN**

**W.P. No.12313 of 2015**

S.Ramakrishnan

... Petitioner

Vs.

1.The Additional Director General of Police,  
(Law and Order),  
Tamil Nadu,  
Chennai 600 004.

2.The Deputy Inspector General of Police,  
Thanjavur Range,  
Thanjavur.

3.The Superintendent of Police,  
Thiruvarur.

.. Respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records relating to the orders in Pro.R.C.No.232016/AP.I (1)/2013, dated 28.11.2014 of the first respondent, (2) Na.Ka.No.P1/Sa.Aa/46/13, Saraga Order No.422/13, dated 02.12.2013 of the second respondent, to quash the same.



W.P.No.12313 of 2015

For Petitioner : No appearance  
For Respondents : Mr.K.Tippu Sultan  
Government Advocate

### **ORDER**

This Writ Petition is filed challenging the order of the first respondent dated 28.11.2014 and the order of the second respondent dated 02.12.2013 by which a punishment of reduction in rank from Head Constable to Grade – I Police Constable for a period of two years was imposed.

2. The petitioner was enlisted as Police Constable Grade-II on 17.11.1988 and working in the post of Head Constable in the year 2003. He was issued with a charge memo in P.R.34/2012 dated 19.06.2012 on the allegation that on 04.11.2007, delinquent along with one HC 481 Adaikalaraj had independently conducted prohibition raid at Velipalayam and seized two bundles containing 140 bottles of Pondy Arrack transported in Suzuki Motor Cycle bearing Registration No.PY-02-A-7647, brought the contraband and the two wheeler to the station, handed



W.P.No.12313 of 2015

over to the station and registered a case in Cr.No.584/2007 under Sections 4(1) (aaa) and 4(1-A) of the TNP Act and kept 140 bottles at the Police Station lock up room without bringing them on record through the Writer. Based on the enquiry conducted, the Enquiry Officer, viz., Superintendent of Police, Tiruvarur District/third respondent held the charges as proved and the second respondent disciplinary authority agreeing with the finding of the Enquiry Officer, imposed punishment of reduction in rank from Head Constable to Grade-I Police Constable for a period of two years on the delinquent for the delinquencies conducted on 04.11.2007. Challenging the order of punishment, the petitioner has filed an appeal before the Appellate Authority/first respondent and as the appeal was not taken up, he had approached this Court in W.P.No.27572 of 2014 and this Court by order dated 16.10.2014, disposed of the Writ Petition by directing the respondents to dispose of the appeal filed by the petitioner on 30.12.2013 on merits and in accordance with law. Pursuant to the same, the first respondent by impugned order dated 28.11.2014, rejected the appeal, confirming the punishment imposed on the delinquent. Assailing the orders of the disciplinary authority and appellate



W.P.No.12313 of 2015

authority, the petitioner has preferred the above Writ Petition.

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3. Heard the learned Government Advocate appearing for the respondents and perused the entire materials available on record. There is no representation on behalf of the petitioner.

4. In respect of the delinquencies committed on 04.11.2007, a charge memo has been issued to the petitioner delinquent under Rule 3(b) of the Tamil Nadu Police Subordinate Services (D & A) Rules 1955 in P.R.No.34/2012. Pursuant to the reply submitted by the petitioner and being not satisfied with the same, the Enquiry Officer was appointed and the third respondent/Enquiry Officer has submitted the enquiry report holding that the charges are proved. Agreeing with the report of the Enquiry Officer, the second respondent/disciplinary authority has imposed a punishment of reduction in rank from Head Constable to Grade – I Police Constable for a period of two years. Challenging the punishment imposed, the petitioner has filed an appeal on 27.12.2013 before the first respondent, which came to be dismissed on 28.11.2014.



W.P.No.12313 of 2015

5. The perusal of the order passed by the appellate authority reveals that the grounds raised by the petitioner in the appeal before the first respondent has not been adverted to and no independent finding has been rendered by analyzing the materials and by a cryptic order, the appeal has been dismissed confirming the orders of punishment.

Paragraph No.5 of the impugned order is extracted hereunder:-

*“ 5. I have carefully gone through the PR file and appeal petition. The delinquent is rightly held as proved based on the statements of witnesses and prosecution document. The appellant has not put forth any fresh point for consideration. The quantum punishment is not excessive, considering the nature of delinquency. The appeal is rejected.”*

6. When the petitioner has been imposed with the punishment of reduction in rank from Head Constable to Grade-I Police Constable and he has filed an appeal before the appellate authority, the appellate authority ought to have considered all the materials and after analysing



W.P.No.12313 of 2015

the materials, ought to have passed the final order. But from the perusal of the impugned order, it could only be seen that it is a cryptic order where there has been no discussion with respect to any of the materials perused or analysed and the basis for arriving at a conclusion. In view of the same, it would only be proper to remand the matter to the file of the first respondent for fresh consideration on merits as earlier directed by this Court.

7. In view of the same, the Writ Petition stands partly allowed, the impugned order passed by the first respondent dated 28.11.2014 alone is set aside and the matter is remanded back to the file of the first respondent, who shall consider the matter afresh after offering necessary opportunity to the petitioner and pass orders on merits, within a period of twelve weeks from the date of receipt of a copy of this order. However, there shall be no order as to costs.

30.08.2024

Index :Yes/No  
gsa



W.P.No.12313 of 2015

To  
WEB COPY

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W.P.No.12313 of 2015

**G.ARUL MURUGAN, J.**  
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**W.P. No.12313 of 2015**

30.08.2024