IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **15.02.2024**

CORAM:

THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

W.P.No.17784 of 2010

1.A.Ramamurthy
(Deceased)
2. Vijaya
3. R.Thilak Kumar @ Pandian
4. Geetha
5. Latha ....Petitioners
(P2 to P5 substituted as LR's of deceased P1)

Vs

1. The Deputy Inspector General of Police,
Vellore Range,
Vellore.

2. The Superintendent of Police,
Tiruvannamalai District,
Tiruvannamalai. ....Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India, pleased to issue a Writ of Certiorarified Mandamus calling for the records of Proceedings in C.No.B1/AP.09/2010 dated 27.05.2010 on the file of the 1st Respondent, quash the same.

For Petitioners : Mr.Mohammed Arshad Ullah Shariff
for M/s. Hemalatha
For Respondents : Mr.R.P.Murugan Raja
Government Advocate.

O R D E R

The Writ Petition has been filed calling for the records of Proceedings in C.No.B1/AP.09/2010 dated 27.05.2010 on the file of the 1st Respondent, quash the same.

2. The learned counsel for the petitioner submitted that, petitioner A.Ramamurthy, who was dead and no more joined the Police Service on 01.01.1971. During June/July 2007, it was alleged that, he accumulated assets, disproportionate to the known source of his income. For the said incident, charge memo in P.R.No.43 of 2008 was issued against him under Rule 3 of the Tamil Nadu Subordinate Police Officers Conduct Rules, 1964. Petitioner submitted his explanation and enquiry was conducted by the Superintendent of Police. Enquiry Officer submitted his report holding that all the four charges proved. Deceased petitioner was directed to submit further explanation. After submitting further explanation, 2nd respondent passed an order in proceedings P.R.No.76/2009/PR-43/2008 dated 31.12.2009 and imposed penalty of withholding of increment for one year without cumulative effect. Aggrieved by the said proceedings, deceased petitioner filed an appeal before the Deputy Inspector General of Police,

Vellore Range, Vellore in C.No.B1/AP.09/2010 dated 27.05.2010 and that was ended in dismissal. Therefore, this Writ Petition is filed.

3. It is the further submission of the learned counsel for the petitioners that, from the charge memo issued against the deceased petitioner, it is apparent that, there was no charge framed for acquiring property in the name of the deceased petitioner. 1st charge was with regard to settlement of the property by his father in the name of his son Thilak Kumar. Other charges are for alleged construction of building and acquisition of portion of land along with one Ramachandran. Petitioner's son was major and has independent source of income. Therefore, purchase of property by Thilak Kumar in his name from his own funds is not illegal. Petitioner cannot be charged for the acquisition of property by his son. Thus, he prayed for setting aside the impugned order in C.No.B1/AP.09/2010 dated 27.05.2010 imposing punishment.

4. In response, the learned counsel for the respondent submitted that, it is not true that, petitioner's son had purchased the property out of his own source of income. Petitioner has not intimated any of the purchases made

by his son Thilak Kumar to the Department nor obtained prior permission for acquisition of property by members of his family. This is violative under Rule 8 & 9 of Tamil Nadu Subordinate Police Officers Conduct Rules, 1964. Therefore, he was charged for violating these rules. After enquiry, charges are held to be proved and he was imposed minimum punishment of withholding of increment for one year without cumulative effect. After completion of one year, withheld annual increment was granted to him, pay was refixed and monetary benefits were given with effect from 01.01.2011. Therefore, nothing survives in this Writ Petition.

5. In reply to the submission, the learned counsel for the petitioner submitted that, deceased petitioner suffered a punishment and it is a stigma against his name and therefore, legal heirs want to save the honor of the deceased petitioner. Therefore, Writ Petition is prosecuted by the legal heirs of the deceased petitioner Ramamurthy. He further submitted that, enquiry was not properly conducted, in the sense that, it was not considered that, petitioner's son Thilak Kumar had independent source of income and as a major, he has a right to purchase the property.

6. Considered the rival submissions and perused the records. It is

seen that deceased petitioner was charged for the following charges:

(i) Grave misconduct in having failed to intimate the competent authorities about the registration of 4 cents of land in Kiliyanur S.No.506/9 in the name of his son Mr.Thilak Kumar (We) and the subsequent construction of 8 shops in the land and thus violated and Tamilnadu Police Subordinate Service Conduct Rules.

(ii) Gross misconduct in having failed to obtain prior permission from the competent authorities to receive hand loan of Rs. 4,66,000/- from one V.Ranganathan, S/o.Vinayaga Chettiar No.20/103, Venkatesan Nagar, 2nd Cross Street, Virugambakkam, Chennai-92(W2) for constructing a house in the name of his son Tr.Thilak Kumar in the land in Kiliyanur S.No.378/1 and thereby violated the TNPSS Conduct Rules;

(iii) Grave misconduct in having failed to obtain prior permission from the competent authorities to purchase 15 cents in Kiliyanur S.No.378/1 on 12.7.99 in the name of his son Tr.Thilak Kumar and to construct a house at the site at Perumal Koil Street, Kiliyanur in the name of Tr.Thilak Kumar and violated TNPSS Conduct Rules;

(iv) Failure to intimate the competent authorities about the joint purchase and registration of 40 cents of land in Kiliyanur S.No.371/3 by his son Tr.Thilak Kumar (W3) along with Tr.M.Ramachandran(W25) and violated the TNPSS Conduct Rules. The substance of allegations, namely the imputations of misconduct or misbehavior in respect of which the Respondents proposed to inquire was served on me along with Statement of accounts.

7. Admittedly, deceased petitioner had not intimated the Department about either the settlement of property by his father in the name of his son or acquisition of properties by Thilak Kumar in his individual name and in collaboration with one Ramachandran. In this regard, It is relevant to refer Rule 9 of Tamil Nadu Subordinate Police Officers Conduct Rules, 1964. It reads as follows:

Movable, Immovable and Valuable Property :-

1(a) No Police Officer shall except after notice to the prescribed authority, acquire or disposes of any immovable property by lease, mortgage, purchase, sale, gift, exchange or otherwise either in his own name or in the name of any member of his family.

> *Provided that any such transaction conducted otherwise than though a regular or reputed dealer shall require the previous sanction of the prescribed authority.*
>
> *Such a notice will be necessary even where any immovable property is acquired by any member of the family of the Police Officer out of the sources of the Police Officer.*

As per this rule, without notice to the prescribed authority, no Police Officer shall acquire or dispose any immovable property by lease, mortgage, purchase, sale, gift, exchange or otherwise either in his own name or in the name of any member of his family.

8. Properties covered in the charges had been either purchased by petitioner's son Thilak Kumar or settled in his name by his Grand Father. Deceased petitioner had not issued notice to the prescribed authority with regard to acquisition of the properties by his son. It is also not known whether deceased petitioner had submitted the statement and the schedule showing all the immovable properties possessed in his name or acquired by any member of his family. Therefore, there is no doubt that, deceased petitioner had violated Rule 9 of Tamil Nadu Subordinate Police Officers Conduct Rules, 1964.

9. The second charge is that, deceased petitioner had received an hand loan of Rs.4,66,000/- from one V.Ranganathan for construction of house in the name of his son Thilak Kumar. This is violation of Rule 8 of Tamil Nadu Subordinate Police Officers Conduct Rules, 1964. There is no explanation or answer given to this charge. Based on the oral and documentary evidence, Enquiry Officer found all the charges proved.

10. It is submission of the learned counsel for the petitioners that, deceased petitioner's son Thilak Kumar was major and had independent source of income and that purchase of property in his name is not illegal. Petitioner cannot be charged for purchase of property by his son Thilak Kumar.

11. This submission of the learned counsel for the petitioner is far from truth for the reason that, substitution petition was filed in M.P.No.01 of 2012 in W.P.No.17784 of 2010, wherein Thilak Kumar had sworn on affidavit, claiming his age as 33 years in the year 2012. Properties had been acquired in the year 1999 and 1996. In that case, he was only 16 years in the year 1996 and 19 years in the year 1999. Probably, he was a student at

the time when properties were purchased. Thus, there is no truth in the claim of the petitioners that, Thilak Kumar was a major and he has an independent source of income for the purchase of property. From the materials produced, this Court finds that, charges are sufficiently proved resulting in minor punishment of withholding of increment for one year. After the period was over, his increment was given, pay was refixed and monetary benefits had been given from 01.01.2011.

12. In the said circumstances, this Court finds that there is no merits in this petition. Accordingly, this Writ Petition is dismissed. Parties are directed to bear their own cost.

15.02.2024

Index :Yes/No
Internet:Yes/No
Sma

G.CHANDRASEKHARAN, J

Sma

To

1. The Deputy Inspector General of Police,
   Vellore Range,
   Vellore.

2. The Superintendent of Police,
   Tiruvannamalai District,
   Tiruvannamalai.

W.P.No.17784 of 2010

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