



WEB COPY



W.P.No.3450 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.10.2024

CORAM:

THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

W.P.No.3450 of 2020

M.Sivalingam

Vs

....Petitioner

1. The State of Tamil Nadu,
Rep. By its Secretary to Government,
Home Department,
Fort St.George,
Chennai – 600 009.
2. The Director General of Police,
Dr.Radhakrishnan Salai,
Mylapore,
Chennai – 600 004.
3. The Commissioner of Polce,
Greater Chennai Police,
Vepery,
Chennai – 600 007.
4. The Deputy Commissioner of Police,
Traffic (South),
Greater Chennai Police,
Vepery,
Chennai – 600 002.
5. The Joint Commissioner of Police,
Traffic (North),
Vepery,
Chennai – 600 007.



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6. The Assistant Commissioner,
Traffic Investigation Department, (North)
Chinthadiripettai,
Chennai – 600 002.

....Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India, pleased to issue a Writ of Certiorari to call for the records pertaining to the proceedings of the respondents 2 to 4 vide their proceedings in Rc.No.8444/AP.3(2)/2019 dated 12.06.2019, Rc.No.PR V(1)/86041/CPO/2017, PR.No.32/Tr.PR/2017 u/r 3(b) dated 01.10.2018 and PR.32/Tr.PR/2017 u/r 3(b) dated 30.04.2018 respectively and quash the same.

For Petitioner : Mr.S.Senthilnathan
For Respondents : Mr.E.Vijay Anand
Additional Government Pleader

ORDER

The instant Writ Petition has been filed challenging the order of punishment dated 12.06.2019 by and which, “withholding of increment for two years with cumulative effect” was imposed.

2. The learned counsel for the petitioner would vehemently submit that, the petitioner had joined the police service on 31.10.1997, and that he had unblemished service. Whiles, on 08.07.2017 from 07.00.a.m., to 11.00.a.m., he was assigned duty at “A” Road Junction and that during

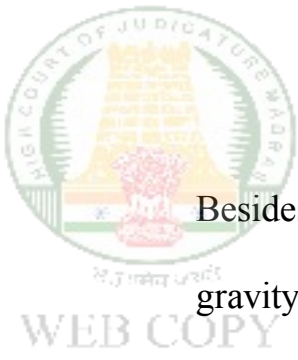


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such time, there was heavy traffic congestion near the junction. In view of the same, he cleared the traffic with the assistance of fellow police one Mr. Sivaprakasam and made sure that the public are safely walking through the road without any traffic congestion. It is the further submission of the learned counsel for the petitioner that, however taking advantage of some false whatsapp video, the authority had illegally suspended him on 15.07.2017 and ultimately based on erroneous enquiry report, he was imposed with the impugned punishment.

3. The main contention of the learned counsel for the petitioner is that, even according to the management witnesses there are no evidences against the petitioner, as such the grave punishment of withholding of increment for two years with cumulative effect is disproportionate to the gravity of the charges and shocking to the conscience of the Court. Hence, prayed to interfere with the impugned order.

4. Per contra, the learned Government Advocate would vehemently submit that the Writ Court has got only limited jurisdiction to find out only to this extent whether is there any evidence available against the petitioner, and beyond that this Court cannot go into the appreciation of evidence.



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Besides he would contend that the punishment is proportionate to the gravity of charges. Hence, prayed to dismiss the present petition.

5. I have given my anxious consideration to the either side submissions.

6. It is pertinent to mention that, whenever this Court exercise the power of Judicial Review, it has got limited power, and cannot venture into re-appreciation of the evidence, as the appellate Court. However, there is duty cast upon this Court to find out, to analyze is there any evidence against the petitioner.

7. Here, the charge is receipt of illegal gratification. The learned counsel for the petitioner would invite the attention of this Court about the testimony given by the management witnesses; Admittedly, there are no direct evidence against the petitioner as to the receipt of illegal gratification. Even the video footage do not contain any such clippings. It is true that there was no complaint against the petitioner. It is in this background, the learned counsel for the petitioner would submit that, when there were no material as to the receipt of any illegal gratification, the



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punishment of withholding of increments is disproportionate to the gravity of the charges.

8. However, while looking at the charge, the charge is not for the receipt of illegal gratification, but the charge is that he abetted to one Mr.Sivaprakasam. While perusing the enquiry report, there is a evidence for his abetment enabling Mr. Sivaprakasam to receive such illegal gratification; and he did not, though witnessing such illegal act, did not complained the Superiors. In view of the same, it is apparent that there are some evidences against the petitioner. In such scenario, this Court cannot interfere with the ultimate finding, even if there is a possibility for an alternative finding. Hence, this Court is of the view that there are no grounds to interfere with the positive findings given by the disciplinary authority against the petitioner.

9. Coming to the proportionality of punishment, the punishment imposed against the petitioner is withholding of increment for two years with cumulative effect. Considering the gravity of the charges, this Court is of the view that the punishment is not shockingly disproportionate, accordingly, there is no merits in the present Writ Petition.



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10. In the result, the Writ Petition stands dismissed. No costs.

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Index :Yes/No

Neutral Citation : Yes

Speaking order : Yes

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To

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C.KUMARAPPAN, J

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