



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.08.2024

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P.No.7089 of 2023
and W.M.P.No.7165 of 2023

S.Manickam

... Petitioner

Vs.

1.The State of Tamil Nadu
Rep. by its Additional Chief Secretary,
Home (Police-II) Department,
Fort St. George, Chennai – 600 009.

2.The Director General of Police,
Chennai – 600 004.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for records relating to the 1st respondent's order made in G.O.(2D)No.190, Home (Police-2) Department dated 04.06.2018 G.O (2D) No.108, Home (Police2) Department dated 11.05.2020 and that of G.O (2D) No.378, Home (Police -2) Department dated 16.09.2022 to quash the same and to consequently direct the respondents to allow the petitioner to retire peacefully w.e.f 30.05.2017 with all service and retiral benefits inclusive of pension fixation thereto.

For Petitioner : Mr.L.Chandrakumar

For Respondent : Mr.M.Bindran
Additional Government Pleader
for R1 & R2



4. The proceedings were initiated and charge memo was issued against the petitioner on 03.01.2017. The petitioner faced the departmental enquiry. Ultimately, it ended up with a punishment of compulsory retirement and reduction in pension to the



tune of Rs.12,000/- from the eligible pension under Rule 39(1) of the Tamil Nadu Pension Rules.

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5.The petitioner has challenged the punishment imposed against him by way of filing the present writ petition.

6.The 1st respondent has filed a counter affidavit. The 1st respondent has taken a stand that the charge against the petitioner was proved and therefore, the imposition of punishment of compulsory retirement with reduction in pension was found to be the appropriate punishment for the gravity of the charge framed against the petitioner. The 1st respondent has further stated in the counter that there is no embargo in reducing from the pension amount for an indefinite period as per Rule 39 of the Tamil Nadu Pension Rules. Hence, the 1st respondent has justified the punishment that was imposed against the petitioner and has sought for the dismissal of this writ petition.

7.Heard Mr.L.Chandrakumar, learned counsel appearing on behalf of the petitioner and Mr.M.Bindran, learned Additional Government Pleader appearing on behalf of the respondents.



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8.The learned counsel for the petitioner touched upon the merits of the case pertaining to the charge framed against the petitioner. However, he submitted that the petitioner has already reached the age of superannuation and that the punishment of compulsory retirement can be sustained. But however, the reduction in pension cannot continue for an indefinite period. The learned counsel to substantiate this submission has relied upon FR-29 which prescribes that the authority should state the period for which it will be effective. The learned counsel submitted that right from 2017 onwards, the pension to the tune of Rs.12,000/- is being deducted from the eligible pension of the petitioner.

9.Per contra, learned Additional Government Pleader appearing on behalf of the respondents submitted that Rule 39 of the Tamil Nadu Pension Rules authorizes the imposition of penalty by way of reduction from the pension at a rate not less than $\frac{2}{3}$ rd and not more than the full compensation. The said Rule does not prescribe for any limited period and there is no embargo to impose this penalty indefinitely.

10.This Court has carefully considered the submissions made on either side and also the materials available on record.

11.The charge against the petitioner is that while the petitioner served as the



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Inspector of Police at Guduvanchery Police Station during the period from 07.09.2007 to 06.03.2009, during the last week of February 2008, without making any entries, the lorry was seized. The registration number of the lorry was tampered. The lorry was kept in the police station. That apart, the engine and chassis number was also erased. Ultimately, this lorry was shown as the stolen lorry in an other case in Crime No.844 of 2007 filed under Section 379 of IPC.

12.The charge memo was issued to the petitioner on 03.01.2017 and explanation was called for. The petitioner had sent his explanation. The Enquiry Officer had examined fourteen witnesses and obtained their signed statements and marked 25 documents. Ultimately, the charge framed against the petitioner was held to be proved.

13.The petitioner was given an opportunity to give his explanation for the findings of the Enquiry Officer. On considering the same, the disciplinary authority came to a conclusion that the charges are proved and accordingly, imposed the punishment of compulsory retirement for the proven charges. That apart, a penalty was also imposed by reducing the pension to the tune of Rs.12,000/- from the eligible pension of the petitioner.



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14. It is not necessary for this Court to go into the merits of the case. The Enquiry Officer has conducted a thorough enquiry by examining the witnesses and by considering the relevant documents. There is no dispute with regard to the fact that the petitioner was the Inspector during the relevant point of time when the incident took place. Therefore, it was found that there was gross negligence and blatant dereliction of duty on the part of the petitioner. Accordingly, the punishment of compulsory retirement imposed against the petitioner does not warrant the interference of this Court.

15. The next issue is with regard to the penalty that was imposed against the petitioner by reducing a sum of Rs.12,000/- every month from the eligible pension of the petitioner. Even though, the learned counsel for the petitioner submitted that FR-29 prescribes for the authority to specifically state the period for which it will be effective, Rule 39 of the Tamil Nadu Pension Rules does not prescribe any such embargo. The reduction of pension is by way of penalty which is also a punishment and Rule 39 of the Pension Rules does not say that the authority must state the total period for which it will be effective. Therefore, FR-29 cannot be applied to place an embargo on the period for which such penalty will continue.



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16. The over all facts and circumstances of the case and the nature of the charge shows that apart from the punishment of compulsory retirement, the petitioner must also face a penalty. Obviously, such a serious occurrence could not have happened if not for the gross negligence and dereliction of duty on the part of the petitioner. The question is as to whether this penalty has to be continued for ever or can be confined to a particular period.

17. The penalty was imposed in the year 2020. By then, the date of superannuation of the petitioner was over on 30.05.2017. Therefore, the reduction in pension became operative from 2017 onwards. The negligence or dereliction of duty on the part of the petitioner has not caused any financial loss to the department. Therefore, while sustaining the penalty, this Court deems it fit not to continue it for ever. Therefore, this Court is inclined to quantify the total penalty to Rs.5 Lakhs. Apart from this amount, whatever has been recovered from the petitioner till now shall be repaid to the petitioner. That apart, the petitioner will be entitled to receive the eligible pension without any deduction starting from October 2024 onwards.



N. ANAND VENKATESH, J.

SSR

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18. The punishment imposed against the petitioner is modified accordingly and this writ petition is disposed of in the above terms. No Costs. Consequently, connected miscellaneous petition is closed.

22.08.2024

Internet : Yes
Index : Yes
Speaking Order / Non Speaking Order
SSR

To

1. The Additional Chief Secretary,
State of Tamil Nadu,
Home (Police-II) Department,
Fort St. George, Chennai – 600 009.

2. The Director General of Police,
Chennai – 600 004.

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