



WEB COPY

W.P.No.33726 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.12.2024

CORAM

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.33726 of 2013

and

M.P.No.2 of 2013

P.Kaliraj

... Petitioner

Vs.

1.The Superintendent
Central Prison
Palayamkottai.

2.The Inspector General of Prisons/
Additional Director General of Police
Tamil Nadu, Chennai 4.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records of the respondents in connection with the impugned orders passed by the respondents 1 & 2 in Ref.No.17488/KC2/2008 dated 29.06.2010 and Ref.No.34088/EW2/2012 dated 07.02.2013 and quash the same.

For Petitioner : Mr.K.Santhosh Kumar

For Respondents : Mr.K.H.Ravi Kumar
Government Advocate.



WEB COPY

W.P.No.33726 of



ORDER

The petitioner herein, while working as Grade-II Warder in the Prison Department, was subjected to disciplinary proceedings on the ground that, he was involved in criminal case vide Crime No.233 of 2008 of Karivalamvandanallur Police Station for offences u/s 147, 294(B), 323, 506 part 2 of IPC, and he was also absent from duty on 17.11.2008. Thereafter, the disciplinary authority namely, the 1st respondent passed an order dated 29.06.2010 imposing the punishment of reduction of pay of the petitioner for a period of one year without cumulative effect. It was thereafter, aggrieved by the said order, the petitioner filed revision under Rule 36 of Tamil Nadu Civil Services (Discipline and Appeal) Rules before the 2nd respondent, and the 2nd respondent, having considered the said revision, modified the punishment of reduction of pay for a period of one year to that of postponement of one increment for one year without cumulative effect by passing an order dated 07.02.2013. It is aggrieved by the said orders dated 29.06.2010 as modified by the order dated 07.02.2013, the petitioner approached this Court by filing the present writ petition.



WEB COPY

2. The learned counsel for the petitioner mainly attacked the impugned order passed by the 2nd respondent on the ground that the no opportunity was afforded to the petitioner before modifying the punishment that was imposed by the 1st respondent as mandated under first proviso to Rule 36(1) of the Rules and as such it is a fit case for remanding the matter back to the 2nd respondent for reconsideration. The said proviso to Rule 36(1) reads as under:

“Provided that no order imposing or enhancing any penalty shall be made by any revising authority unless the Government Servant concerned has been given a reasonable opportunity of making his representation against the penalty proposed and where it is proposed to impose any of the penalties specified in clauses (iv), (v), (vi), (vii) and (viii) of Rule 8 or to enhance the penalty imposed by the order sought to be revised to any of the penalties specified in those clauses, and if an inquiry under sub-rule (b) of Rule 17 has not already been held in the case no such penalty shall be imposed except after an inquiry in the manner laid down in the said sub-rule (b) of Rule 17 which shall be subject to the provisions of sub-rule (c) thereof, and except after consultation with the Tamil Nadu Public Service Commission, where such consultation is necessary:”

3. From the perusal of the above proviso, it is evident that in case the revisional authority, either suo motu or otherwise, intends to impose or enhance any penalty, the Government servant concerned shall be given



reasonable opportunity of making his representation against the penalty proposed.

WEB COPY

4. In the instant case, admittedly, the 2nd respondent has not afforded any opportunity to the petitioner before passing the order dated 07.02.2013 imposing the punishment of stoppage of increment. In the light of the above, this Court is not inclined to go into the merits of the case and is of the considered view that it would suffice if the matter is remanded back to the 2nd respondent for reconsideration of the matter by duly affording an opportunity to the petitioner.

5. In the light of the above, the impugned order bearing Ref.No.34088/EW2/2012 dated 07.02.2013 passed by the 2nd respondent is set aside, and the matter is remanded back to the 2nd respondent for considering the same afresh by duly affording an opportunity to the petitioner. The 2nd respondent is further directed to dispose the revision petition as expeditiously as possible, at any rate within a period of two (2) months from the date of receipt of a copy of this order.



W.P.No.33726 of

6. Accordingly, this writ petition is disposed of. The connected miscellaneous petitions, if any, shall stand closed. No costs.

WEB COPY

13.12.2024

dpa

Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No

To

1.The Superintendent
Central Prison
Palayamkottai.

2.The Inspector General of Prisons/
Additional Director General of Police
Tamil Nadu, Chennai 4.

MUMMINENI SUDHEER KUMAR, J.



WEB COPY



W.P.No.33726 of

dpa

W.P.No.33726 of 2013
and
M.P.No.2 of 2013

13.12.2024