



W.P. No. 38424 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.09.2024

CORAM

THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

W.P. No.38424 of 2015 and
M.P.No.1 of 2015

P.V.Murali

... Petitioner

Vs

1.The Additional Director General of Police,
Law and Order,
Mylapore,
Chennai 4.

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

3.The Superintendent of Police,
Cuddalore District,
Cuddalore.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order passed by the first respondent dated 09.10.2015 in Rc.No.12949/Con.III(1)/2013 by confirming the order of second respondent dated 11.02.2015 vide in R.O.No.61/2015 Na.Ka.No.B2/PR No.09/2014 and quash the same, consequently



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directing respondents to promote petitioner as Deputy Superintendent of Police/Assistant Commissioner on par with petitioner's batch mates, provide all service and monetary benefits.

For Petitioner : Mr.M.R.Jothimanian

For Respondents : Mr.Stalin Abhimanyu,
Additional Government Pleader

ORDER

The writ petition is filed challenging the order of the first respondent dated 09.10.2015, confirming the order of the second respondent dated 11.02.2015, imposing the punishment of postponement of increment for a period of one year which shall operate to postpone future increment.

2. It is the case of the petitioner that he was appointed as Sub-Inspector of Police on 22.09.1987 and while in service, a case was registered in Crime No.94 of 2011 on 27.02.2011 under Section 302 of Indian Penal Code. According to the petitioner, he was on leave and joined duty only on 02.03.2011. Only after he joined duty, he has taken over charge from the in-charge officer. Pursuant to which, he arrested the accused namely Suresh on 04.03.2011 at 11.00 a.m. Thereafter, the



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accused was produced before the Judicial Magistrate No.I, Cuddalore and thereafter, he was remanded to Judicial custody and sent to Central Jail, Cuddalore on the same day. On 05.03.2011 at 2.30 a.m., the accused Suresh complained of chest pain, therefore, he was sent to Headquarters Hospital, Cuddalore by the prison authorities and he died on 05.03.2011 at 13.45 hrs. Pursuant thereto, a case was registered in Crime No.119 of 2011 and it was referred to Judicial Magistrate No.I, Cuddalore for enquiry under Section 176(1)(A) of Criminal Procedure Code.

3. Subsequently, a charge memo was issued to the petitioner under Rule 3(b) of Tamil Nadu Police Subordinate Service (Discipline and Appeal) Rules. As per the charge, the petitioner had brought the accused illegally to the Police Station on 02.03.2011 for enquiry and thereafter remanded him to Judicial custody on 04.03.2011 at 11.00 a.m. The petitioner was found to have failed in discharging his duty. Pursuant to that, an Enquiry Officer was appointed and submitted a report on 05.03.2011, concluding that the charges were partly proved against the petitioner. Thereafter, a Show Cause Notice was issued to him. Pursuant to the reply dated 31.12.2014, the Disciplinary Authority concurred with and accepted the findings of the Enquiry Officer and by order dated



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11.02.2015, imposed punishment of postponement of increment for a period of one year which would operate to postpone his future increments. Challenging the order of punishment, the petitioner preferred an appeal to the first respondent on 31.03.2015. By an order dated 09.10.2015, the appeal came to be rejected and assailing the orders of both the Disciplinary Authority and the Appellate Authority, the petitioner approached this Court by filing the present petition.

4. Mr.M.R.Jothimanian, the learned counsel for the petitioner argues that in respect of the incident, it is evident that the Police Officials have acted out of personal animosity. He contends that the petitioner alone has been discriminated and disciplinary proceedings have been initiated against him solely due to the intervention of a higher officer who is Deputy Superintendent of Police. The learned counsel for the petitioner would further contend that a preliminary enquiry was conducted by the Deputy Superintendent of Police only due to a personal dispute with the petitioner and the report itself is tainted by malafide intentions. The learned counsel emphasizes that according to the charges, the deceased was arrested on 02.03.2011, however, in the enquiry, even from the statement of the wife of the deceased, it was found that the deceased was



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arrested on 04.03.2011 and there is no material to support any arrest on 02.03.2011 or any claim for illegal custody. The Disciplinary Authority had traversed beyond the charges and imposed punishment which is erroneous. Though the petitioner raised several grounds, including malafide actions, in his appeal to the Appellate Authority, the Appellate Authority failed to approach the matter independently or apply its mind to the issues raised. Instead, it issued a cryptic order rejecting the appeal, therefore, the order of the Appellate Authority is not legally sustainable. Hence, the learned counsel seeks to quash the impugned order.

5. Mr.Stalin Abhimanyu, the learned Additional Government Pleader appearing for the respondents, relied upon the counter and submit that, in fact, due to the actions of the petitioner, the victim had died while in Judicial custody and this was only attributable to injuries caused by the petitioner during custody. The learned Additional Government Pleader would further submit that the petitioner arrested the accused Suresh and found injuries on his body. It is the mandatory duty of the petitioner to record these injuries and ensure the arrested person is taken before a registered Medical Practitioner in due compliance with the provisions of Criminal Procedure Code. The learned Additional



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Government Pleader would further contend that the injuries were corroborated by the post-mortem report, which indicated the injuries throughout the body of the deceased. When the petitioner arrested the accused and taken custody of the person, he was duty-bound to explain the injuries found on the body of the accused person. Failure to do so, along with the negligence shown, led to the initiation of disciplinary proceedings against the petitioner. After a detailed enquiry, the charges were found to be partly proved which was accepted by the Disciplinary Authority and imposed the punishment of postponement of increment for a period of one year affecting future increments. In fact, the Appellate Authority had recorded in its findings that the petitioner had failed to record the injuries, indicating negligence on his part. Since the essence of the findings has been recorded, the order of the Appellate Authority is justified.

6. Heard both sides. Perused the material available on record.

7. Admittedly, this case pertains to Crime No.94 of 2011 registered on the file of Vadalur Police Station for the offence under Section 302 of Indian Penal Code against the accused Suresh. At that time, the petitioner



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was working as Inspector of Police at the concerned Police Station.

However, according to the petitioner, he was on leave and joined duty on 02.03.2011, while the incident was occurred on 27.02.2011. However, the fact remains that even though the occurrence was on 27.02.2011 and the petitioner had joined duty on 02.03.2011, the accused came to be arrested only on 04.03.2011. Despite this, the petitioner has been charged with having kept the accused in illegal custody from 02.03.2011 and subsequently arrested and produced before the Judicial Magistrate No.I, Cuddalore on 04.03.2011. The Enquiry Officer, by relying on the statement of the wife of the deceased, had came to the conclusion that there was no material to establish that the accused was taken into custody on 02.03.2011. However, the fact remains that the accused was in the custody of the petitioner at least from 04.03.2011 i.e., from the date on which he was admittedly arrested and till the time he was produced before the Magistrate.

8. Pursuant to the accused being sent to Judicial custody, he had complained of chest pain and he was referred to the Government Hospital, where he died on 05.03.2011 at 13.45 hrs. In the light of his death, the case was registered in Crime No.119 of 2011 and the matter



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was referred to the Judicial Magistrate for enquiry under Section 176 (1-A) of Criminal Procedure Code, as the death occurred while in Judicial custody. Consequently, a charge memo came to be issued as against the petitioner under Rule 3(b) of Tamil Nadu Police Subordinate Service (Discipline and Appeal) Rules.

9. It is the case of the petitioner that there was no material available to implicate the petitioner for having arrested the deceased and kept him in Judicial custody from 02.03.2011 and that the Disciplinary Authority had also given findings to this aspect. Nevertheless, the fact remains that even though several other police personnel are alleged to have been involved in the occurrence, no proceedings have been initiated against them and only due to a personal dispute with the Deputy Superintendent of Police, the petitioner has been singled out. The petitioner, while challenging the order of punishment before the first respondent, had raised detailed grounds of appeal citing several legal issues and errors in the order of the Disciplinary Authority, imposing punishment. From the perusal of the order of the first respondent, it is evident that the first respondent by an cryptic order had only come to the conclusion that the remand prisoner died due to Myocardial Infarction following Multiple



injuries (Polytrauma) and the petitioner failed to record the injuries and did not take initiation for treatment. The impugned order of the first respondent is extracted hereunder:

“5. I have carefully gone through the PR file, appeal petition and all other connected records. The enquiry officer held the charge as partly proved and the punishing authority has awarded the punishment of Postponement of increment for one year which shall operate to postpone future increments. It is a fact that the remand prisoner died due to myocardial infarction following multiple injuries (polytrauma). It is also a fact that the appellant failed to note down the injuries and did not take initiative for treatment. Police duty is to protect the life and liberty of the citizen and not to tamper with it. Considering the nature of proved delinquency and the punishment awarded, it is not excessive and the appeal petition is rejected.”

10. The petitioner raised several issues in the appeal which is a statutory right provided to him to agitate his issue in the appeal by pointing out errors committed by the Disciplinary Authority. It is for the Appellate Authority to assess all materials and grounds raised in the appeal and arrive at an independent findings by taking into account the materials relied on by the petitioner. However, on perusal of the order referred above, it is seen that only by a cryptic order, the first respondent



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rejected the appeal merely concurring with the findings of the Disciplinary Authority and stating that no steps have been taken by the petitioner to treat the person. The order lacks clarity on how the Appellate Authority had arrived at its conclusion as there is no discussion regarding the materials considered.

11. Since the order of the Appellate Authority is cryptic in nature, this Court is of the considered view that it would be appropriate to remand the matter back to the file of the first respondent to assess all materials available in the appeal and legal grounds raised by the petitioner and arrive at independent findings. The reasoning is the life of the order as only through that the person concerned will be able to assess on what basis the order has been passed. Therefore, the cryptic order dated 09.10.2015 passed by the first respondent cannot be sustained.

12. In view of the above, the order of the first respondent alone is set aside and the matter is remanded back to the file of the first respondent to assess all materials and grounds raised by the petitioner in the appeal and pass fresh order on merits, without being influenced by the observations in this order, after affording opportunity to the



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petitioner, within a period of 12 weeks from the date of receipt of a copy of this order.

13. With these observations, the writ petition stands partly allowed.

No costs. Consequently, connected miscellaneous petition is closed.

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Speaking (or) Non Speaking Order

Index : Yes/ No

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Villupuram Range,
Villupuram.

3. The Superintendent of Police,
Cuddalore District,
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G.ARUL MURUGAN, J.

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