



WEB COPY



W.P.No.25003 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :20.08.2024

CORAM :

THE HONOURABLE MR. JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.25003 of 2014

and

M.P.No. 1 of 2014

S.S.Anandan

...Petitioner

Vs.

1. The Director General of Police,
Tamil Nadu, Chennai – 600 004.

2. The Principal Secretary to Government,
Home (Police IVA) Department,
Secretariat, Chennai -600 009.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the order of the first respondent herein passed in his Rc.No. 209492/Con.I(2)/2007-1 dated 03.08.2010 imposing a punishment of compulsory retirement from service and the consequential order passed by the second respondent herein in G.O.(2D). No. 195, Home (Police. IVA) Department dated 11.06.2014 rejecting the petitioner's appeal petition and quash the same and consequently direct the respondents herein to reinstate the petitioner in service with all consequential service and monetary benefits.



W.P.No.25003 of 2014

For Petitioner : Mr.R.Prem Narayan
For Respondents : Mr.R.L.Karthika
Government Advocate

ORDER

While the petitioner was working as a Sub-Inspector of Police in Erode North Traffic Police Station, the petitioner and two other employees were subjected to the disciplinary proceedings by framing a common charge and they were jointly tried by the Tribunal for Disciplinary Proceedings, resulting in imposing the punishment of compulsory retirement from service through proceedings in R.C.No.209492/Con.I(2)/2007-1 dated 03.08.2010 passed by the first respondent. The said order of punishment passed by the first respondent was confirmed by the second respondent through G.O.(2D) No.195, Home (Police IVA) Department dated 11.06.2014. Aggrieved by the said proceedings dated 03.08.2010 passed by the first respondent as confirmed by the second respondent, the petitioner has filed the present writ petition.

2. Charges that are levelled against the petitioner and two others reads



as under.

“(i) That actuated by corrupt motive and in abuse of your (1, 2 & 3) Official position and authority, while you (AO-1) Thiru.S.S.Anandan, formerly Reserve Sub-Inspector of Police, North Traffic Police Station, Erode and you (AO-2) Thiru.P.Mohamed Meera, formerly Head Constable 1555, North Traffic Police Station, Erode on 24.05.2005 at 8.15 hours when you were at Sathy Road, you have (AOs 1 & 2) stopped one TVS Centra Motor Cycle TN 33 AC 2116 driver by Thiru.S.Velmurugan of Periyasamur and you have (AO-1) issued Police notice, for not having insurance certificate. You (AO-1) have demanded Rs.250/- as fine and directed to give it to AO-2. You (AO-2) have received Rs.250/- and only on payment of Rs.250/- the vehicle was released by you (AOs 1 and 2).

(ii) On 24.05.2005 at 9.00 hours in Mettur Road, You have (AOs 1 and 2) stopped the Hero Honda Motor Cycle TN 72 X 9239 driven by Thiru.Janarthanan of Devakottai and you have (AO- 1) issued Police Notice for using Cellphone while riding in vehicle. You have (AO-1) demanded Rs.200/- as fine and directed to give it to AO-2. You have (AO-2) received Rs.200/- and released vehicle only after payment of Rs.200/-.

(iii) On 24.05.2005 at 11.30 hours in Nachiappa



WEB COPY



W.P.No.25003 of 2014

Road you have (AOs 1 and 2) stopped the TVS Scooty TN 33 M 3245 driven by Thiru.M.Palanisamy of Teachers Colony, Erode and you have (AO-1) issued Police Notice for riding through “no entry”. You have (AO-1) demanded Rs.500/- as fine and directed to give it to AO-2. You (AO-2) have received Rs.500/- and released the vehicle only after payment of Rs.500/-.

(iv) On 24.05.2005 at 11.40 hours in Nachiappa Road, you have (AOs 1 and 2) stopped the Yamaha Crux Motor Cycle TN 33 Q 0569 driven by Thiru.Sarathprasad of Krishnampalayam, Erode and you have (AO-1) issued Police Notice for driving through “no entry” road. You have (AO-1) demanded Rs.500/- as fine and directed to give it to AO-2. You have (AO-2) received Rs.500/- and only after payment of Rs.500/- the vehicle was released.

(v) On 24.05.2005 at 12.00 hours near Municipal Kalyana Mandapam you (AOs 1 and 2) stopped the Bajaj M-80 Motor Cycle, TN 27 B 5201 driven by Thiru.S. Viswanathan of Veerappan Chathiram, Erode and you have (AO-1) issued Police Notice for riding through “no entry” road. You have (AO-1) demanded Rs.500/- as fine and directed to give it to AO-2. You have (AO-2) received Rs.500/- and after payment of Rs.500/- the vehicle was released.



WEB COPY



W.P.No.25003 of 2014

(vi) On 24.05.2005 at 12.45 hours near Sathy Road Rountana you (AOs 1 and 2) stopped the TVS Suzuki Motor Cycle, TN 28 T 4955 driven by Thiru.K.C. Senthilkumar of Periyasemur and you have (AO-1) issued Police Notice for not having insurance certificate. You have (AO-1) demanded Rs.600/- as fine and directed to give it to AO-2. You have (AO-2) received Rs.600/- and only on payment of Rs.600/- the vehicle was released.

(vii) On 25.05.2005 at 10.55 hours at Sathy Road near Erode Bus stand you (AOs 1 and 3) stopped the Splendor Motor cycle, TN 33 AA 5853 driven by Thiru.S.Raja of Surampatti and you have (AO-1) issued Police Notice for riding the vehicle without having driving licence. You have (AO-1) demanded Rs.400/- as fine and directed to give it to (AO-3). You (AO-3) have received Rs.400/- as fine and only on payment of Rs.400/- the vehicle was released.

(viii) On 25.05.2005 at 12.50 hours near Nachiappa Street, You have (AOs 1 and 3) stopped the TVS 50 XL. TN 33 A 1228 driven by Thiru. Dhandapani of Periyavalasu and you have (AO-1) issued Police Notice for riding without having vehicle records. You (AO-1) have demanded Rs.1,400/- as fine and directed to give it to the accused



WEB COPY



W.P.No.25003 of 2014

officer-3. You have (AO-3) received Rs.500/- and only on payment of Rs.500/- the vehicle was released.

(ix) On 25.05.2005 at 1.20 PM in the rear gate of VOC park, you have (AOs 1 and 3) stopped the TVS Suzuki, driven by Thiru. Subramanian of Krishnamapalayam and you have (AO- 1) issued Police Notice for riding without having vehicle records. You have (AO-1) demanded Rs.500/- as fine and directed it to give it to Accused officer-3. You have (AO-3) received Rs.500/- and only on payment of Rs.500/- the vehicle was released.”

3. From the careful perusal of the charges levelled against the petitioner and two others shows that the petitioner and two others are in the duty of finding traffic violations of various vehicles and accordingly, appropriate police note was issued requiring the violators to pay the specified fine amounts. However, there appears to be some procedural lapse in remitting the said fine amounts to the appropriate account of the concern Court. The said amounts were collected by the officials attached to the office of the petitioner herein and even before the said amount was deposited before the concern Court, vigilance ride took place and thereby the petitioner and two others were subjected to disciplinary proceedings as noted above.



WEB COPY

4. As already noted above, the entire amount that was demanded by the petitioner and two others is only towards fine amount covered by the relevant Police note. It is not even an allegation in charge that the said amount was demanded as bribe or any amounts were collected by the petitioner and other two officers which are not covered by the Police note issued by them. It is well known that once the Police note was issued specifying the fine amounts, the concerned Police are responsible for collecting such fine amounts, and record relating to such police note would be available in the records.

5. The traffic offenders are required to deposit the said amount before the concerned Court and then seek release of vehicles from the Police. But in the instant case, it appears that the said fine amounts were collected by the Police themselves and the said were supposed to be credited to the relevant account by one of the officials attached to the office of the petitioner. Even before the said deposit was made, the vigilance ride appears to have taken place, resulting in subjecting the petitioners and two others to disciplinary proceedings in question.



WEB COPY

6. In the absence of any allegations of demand of bribe especially in a situation where the petitioner herein has admittedly issued appropriate Police note in respect of various offences committed by the traffic offenders, there is no scope for misappropriation of any such fine amounts. The entire allegation is only of demanding fine but not an illegal gratification. In the absence of any allegation demanding a bribe or illegal gratification by the petitioner and in the context of admitted fact that the amount that was demanded is only a fine amount, the conclusion arrived at by the first respondent as confirmed by the second respondent imposing major punishment of compulsory retirement of service is shockingly disproportionate to the nature of charge alleged against the petitioner.

7. In respect of another accused officer namely (AO-2) Thiru.P.Mohamed Meera, former Head Constable who was also subjected to very same disciplinary proceedings and similar punishment of compulsory retirement from service was imposed. The said punishment of compulsory retirement was interfered with by a learned Judge of this Court in W.P.No.27864 of 2013 by order dated 01.09.2017 duly modifying the said punishment, ordered to settle the terminal benefits of the petitioner therein,



taking note of the fact that the petitioner therein has attained the age of superannuation while denying the salary for a period he was kept out of service pursuant to the order of compulsory retirement. The said order dated 01.09.2017 passed by the learned Single Judge was appealed by the respondents and learned Division Bench by an order dated 09.03.2023 modified the said order dated 01.09.2017 passed in W.P.No.27864 of 2013 by imposing the punishment of stoppage of increment for a period of three years with cumulative effect in the place of punishment of compulsory retirement.

8. As already noted above, the charge that was framed against the petitioner herein and the said Thiru.B.Mohamed Meera the petitioner in W.P.No. 27864 of 2013 is one and the same. They are also subjected to common disciplinary proceedings and similar punishment was imposed on the petitioner as well as on the said Thiru.B.Mohamed Meera. The conclusion that was arrived at by this Court on the facts and circumstances of the case is in tune with the conclusion arrived by the learned Single Judge in W.P.No. 27864 of 2013.



W.P.No.25003 of 2014

9. In view of the above order passed by the learned Division Bench in W.A.No. 2518 of 2018 modifying the order passed by the learned Single Judge in W.P.No. 27864 of 2013, this court is of the considered view that it would be appropriate and in the interest of justice to pass a similar order in the present writ petition as well.

10. In the light of the above and for the reasons assigned in the order dated 01.09.2017 in W.P.No. 27864 of 2013 and order dated 09.03.2013 in W.A.No. 2518 of 2018 the punishment of compulsory retirement imposed on the petitioner by the first respondent through proceedings in R.C.No. 209492/Con.I(2)/2007-1 dated 03.08.2010 as confirmed by the second respondent through G.O.(2D). No. 195, Home (Police. IVA) Department dated 11.06.2014 is modified as that of punishment of stoppage of increment for a period of three years with cumulative effect. Consequently, the respondents are directed to reinstate the petitioner into service within a period of six weeks from the date of receipt of a copy of this order. The period during which the petitioner is out of service that is since the date of compulsory retirement till the date of retirement shall be treated as service for all purposes except for monetary benefits.



W.P.No.25003 of 2014

WEB COPY

11. Accordingly, the writ petition is partly allowed. The miscellaneous applications, if any, shall stand closed. No costs.

20.08.2024

Index:Yes/No

Speaking Order : Yes/No

Neutral Citation Case : Yes/No

nsI

MUMMINENI SUDHEER KUMAR,J.

nsI

To:

Page No.11 of 12



W.P.No.25003 of 2014

WEB COPY

1. The Director General of Police,
Tamil Nadu, Chennai – 600 004.
2. The Principal Secretary to Government,
Home (Police IVA) Department,
Secretariat, Chennai -600 009.

W.P.No.25003 of 2014

20.08.2024