



Writ Appeal No.1423 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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RESERVED ON
25.06.2024

PRONOUNCED ON
16.07.2024

CORAM

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR
AND
THE HONOURABLE MR. JUSTICE K.KUMARESH BABU

Writ Appeal No.1423 of 2022

R.Amirthavel

... Appellant

Vs

1.The Superintendent of Police,
Salem District, Salem.

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

... Respondents

PRAYER:- Writ Appeal has been filed under Clause 15 of Letter Patent to set aside the order dated 07.09.2020 made in W.P.No.29515 of 2013 and pass such further order.

For Appellants : Mr.K.Venkataramani
Senior Counsel
for Mr.M.Muthappan

For Respondents : Mr.V.Manoharan
Additional Government Pleader



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JUDGMENT

(Judgment of the Court was made by Mr.K.KUMARESH BABU.,J.)

This Intra Court Appeal had been filed by the unsuccessful Writ Petitioner wherein the challenge to the punishment that had been imposed had been negated by the learned Single Judge.

2. Heard Mr.K.Venkataramani, learned Senior Counsel for Mr.M.Muthappan, learned counsel for the appellant and Mr.V.Manoharan, learned Additional Government Pleader appearing for the respondents.

3. Mr.K.Venkataramani, learned Senior Counsel for the appellant would submit that the appellant while working as a Head Constable and discharging his duties in the Highway Patrol Team was charged with allegations of collecting bribe from the lorries of the Highway and also was charged with the delinquency of not informing the superiors of an accident which had involved one of the members of the Highway Patrol Team. He would submit that the appellant had submitted a detailed explanation to the said charges and during the enquiry with respect to the charge relating to



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collection of bribe, only one witness had been examined and that witness had not stated anything about any such incident. Similarly with regard to the incident of not informing the superior, he would submit that the Patrol Team had consisted of Sub-Inspectors who were incharge of Team and if any information is to be given, it is the duty of such Sub-Inspector who was heading the Patrol Team and not the appellant who was the Head Constable working under the said Sub Inspector. He would submit that the said allegation of not communicating the accident is also false, as the incident has been communicated by the Sub-Inspector who had headed the Team and the said injured had also been admitted in the hospital by the Team. Therefore, he would submit that the charge itself is wholly unfounded and further, he would submit that these aspects had been wholly overlooked by the learned Single Judge. The learned Single Judge had failed to see that the findings of the Enquiry Officer with regard to the allegation of receipt of bribe had not been supported by any material evidence. The learned Single Judge had simply relied upon the finding without looking into the materials that were available to substantiate the allegation. He would submit that the learned Single Judge had proceeded in the basis that there is



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a serious allegation of receipt of bribe without going into the findings on that aspect to come to such a conclusion itself is liable to be set aside.

Hence, he would seek interference of this Court.

4. Countering his arguments, Mr.V.Manoharan, learned Additional Government Pleader appearing for the respondents would vehemently contend that the Enquiry Officer had given a finding that both the allegations have been said to have been proved. He would further submit that the accident leading to the injury of the driver of the Patrol Team had occurred only when he attempted to stop the vehicle for collection of bribe on the instruction of the Team. Therefore, they had tried to purge the incident and failed to report the incident to the Superior Officers immediately. He would further submit that the payment of the bribe had been admitted to by an independent witness namely the third witness who had been examined by the Enquiry Officer.

5. When that being so, there is no infirmity in the punishment imposed by the Disciplinary Authority for the charges that had been held to have been proved and therefore, the learned Single Judge was right in



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upholding the punishment and therefore he would seek dismissal of the

WEB COPY Intra- Court Appeal.

6. We have considered the rival submissions made by the respective counsels and perused the materials available on record.

7. The appellant had been proceeded with departmentally on two sets of charges. First namely the non-reporting of the incident of an accident which involved a co-team member of a Highway Patrol Team to the superiors immediately and secondly a charge of demanding and collecting illegal gratification.

8. The charge memo indicates that there were 8 documents in support of the charges that had been framed and 7 witnesses who were to be examined to substantiate the said charges. It is very surprising to note that the statement of the appellant was also one of the said document and the appellant himself has been shown as a witness to prove the charges against him. Further, a reading of Annexure-I and II would show that the Annexure-II is a repeat of Annexure-I, ie., the charge alleged in Annexure-I



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had been repeated in Annexure-II without indicating what are the imputations on the basis which the charges in Annexure-I are being framed.

9. From a reading of the entire charge memo, it could be seen that the charges have been framed without any material evidence. We come to such a conclusion for the simple reason that the witnesses 3 to 7 are delinquent themselves and other team members who were part of the Patrol Team. We have also gone through the Enquiry Report produced before us. We had also perused the evidences that had been recorded by the Enquiry Officer, as regards the Witness No.1, who was working as a Sub-Inspector. The recording of evidence of P.W.1, does not speak in support of any delinquency except for indicating that he had made a statement to the then Superintendent of Police and with regard to the statements that had been sought to be substantiated. P.W.2 was a Doctor who had treated the injured. Her statement cannot also be a statement that would support the charges except for the injury sustained by one Baladhandayuthapani. P.W.3 was alleged bribe giver, a driver of a Cargo vehicle. The statement recorded from him also do not support any payment of bribe to the



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Officials. In fact he had in his evidence stated that an unnamed Police

Officer had spoken to him in Hindi and since he did not understand Hindi,

he had signed in the place in a diary which was shown to him. Even the

said witness had not spoken anything about the payment of bribe, P.W.4,

one Muthukarruppan had been examined to substantiate that he was the

person who had conducted the preliminary enquiry. He cannot be also held

to be a witness to support the delinquency. No other witness seems to have

been enquired by the Enquiry Officer. The said Muthukarruppan, P.W.4

had not been shown as witness in Annexure-4. But, however, he had been

examined as a witness without notice to the delinquent. The Enquiry

Officer had given his findings based on the documents/ statements

recorded during the preliminary enquiry without the witnessess reiterating

the same during the enquiry. Even the witnessess who had been examined

to drive home the theory of receipt of illegal gratification, in our view had

not supported the case of the Department, but on the other hand he had

indicated that he had simply signed on the dotted lines, which statement

has been relied upon by the Department to contend that P.W.3 has given a

statement, as if the delinquent namely the appellant and his Team had



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received the bribe.

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10. In our view, the charge memo itself is vague particularly when the Annexure-II, which is supposed to be imputations on which the charges have been framed in Annexure-I, is just a repetition of charges in Annexure-I and even in the list of documents, the statement of the delinquent officer and the delinquent himself has been shown as witnessess. This shows that there is a clear non-application of mind both on the part of the Disciplinary Authority as also the Enquiry Officer. We are also of the considered view that the entire proceedings had been hastily taken without any valid materials to malign the appellant.

11. Therefore we have no hesitation to hold that the entire disciplinary proceedings as initiated by the respondents is not supported by any material facts and for that reason alone we are inclined to set aside the order of punishment as well as the order passed by the learned Single Judge.

12. For the foregoing reasons, the Writ Appeal is allowed and the



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impugned order dated 07.09.2020 made in W.P.No.29515 of 2013 passed by the learned Single Judge is set aside and the appellant is entitled for all consequential and other attendant benefits as available to him. However, there shall be no order as to costs.

(D.K.K.,J.) (K.B., J.)
16.07.2024

Index: Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No
gba

To

- 1.The Superintendent of Police,
Salem District, Salem.
- 2.The Deputy Inspector General of Police,
Salem Range, Salem.



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D. KRISHNAKUMAR., J.
and
K.KUMARESH BABU.,J.

gba

A Pre-delivery Judgment made in
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