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W.P.No.34010 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.12.2024

CORAM:

THE HONOURABLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.34010 of 2024
and W.M.P.Nos.36827, 36827 and 36829 of 2024

D.Bhaskar
S/o, Deivasigamani
Sub-Inspector of Police
Anaicut Police Station
Chengalpattu District.

...Petitioner

Vs

1.The Deputy Inspector General
of Police
Kancheepuram Range
Kancheepuram.

2.The Deputy Superintendent of Police
Thiruthani Sub-Division
Thiruthani, Thiruvallur District.

3.Mr.Kandan
Deputy Superintendent of Police
Thiruthani Sub-Division
Thiruthani, Thiruvallur District.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records of the 2nd respondent in connection with the impugned order in DTO



W.P.No.34010 of 2024

No.031300 in C.No.F1/PR 13/2024 dated NIL and quash the same and direct the respondents to furnish copies of the documents mentioned in Annexure 3 and 4 to the charge memo dated 01.04.2024 and further direct the respondent to conduct a fresh oral enquiry by changing the enquiry officer namely the 3rd respondent.

For Petitioner	:Mr.Venkataramani Senior Advocate for Mr.M.Muthappan
For Respondents	: Mr. Abishek Murthy Government Advocate

ORDER

This writ petition has been filed challenging the impugned order passed by the 2nd respondent in DTO No.031300 in C.No.F1/PR.No. 13/2024 dated NIL and to direct the respondents to furnish copies of the documents mentioned in Annexure 3 and 4 to the charge memo dated 01.04.2024 and further direct the respondents to conduct a fresh oral enquiry by changing the enquiry officer namely the 3rd respondent.

2. The case of the petitioner is that the petitioner is a Bachelor's Degree holder and participated in the process of selection for appointment to the post of Sub-Inspector conducted by T.N.Uniformed Services Recruitment Board and appointed to service on 26.02.2016. The



W.P.No.34010 of 2024

petitioner after undergoing institutional training in the Police Recruit School was posted to serve in Chengalpat District. The petitioner has successfully completed his probation and the service of the petitioner has been meritorious throughout.

(ii). The petitioner has been serving in Arni Police Station in Thiruvallur District Chengalpat Range during the year 2023. It is alleged that the petitioner has directed the Station Writer Rajkumar who was serving as Special Sub-Inspector at that time to change the accused concerned in Crime No.462/2023 under Sections 279 and 337 IPC from Thiru Selvaraj, instead of the real accused Murali. The writer refused to concede to the request of the petitioner and thereafter, the real accused Murali was arrested on 19.9.2023 and hence, the petitioner is alleged to have attempted to make personal gains by changing the accused, thereby committed reprehensible conduct. Similarly, it is also alleged that the petitioner while serving in Arni Police Station in Thiruvallur District, he had the knowledge that one Ramaraj, S/o.Varadhan, who committed theft of river sand by using the motor cycle of his daughter, thereby the petitioner has involved in the crime. Though the occurrence has taken place in the year 2023, the petitioner, after transferred from Thiruvallur



W.P.No.34010 of 2024

WEB COPY

District, he was issued with a charge memo u/r 3(b) of TNPSS (D&A) Rules by the 1st respondent dated 01.04.2024.

(iii). The petitioner is a Station House Officer of the Arni P.S., during the year 2022. One Venkatesan was his Circle Inspector. Thiru. Rajkumar, a batchmate of Tr. Venkatesan was serving as Special Sub-Inspector of Police and both of them were in 'hand and glove' in so many issues. The petitioner, who is a disciplined officer was enforcing the law and order very strictly without fear or favour in his jurisdiction, right from the date of his appointment and the petitioner was awarded the Best Sub-Inspector of Police for the year 2023 by the Collector of Tiruvallur District, with Medal on the Independence Day celebrations on 15th August 2023. It was not to the liking of the Circle Inspector Tr.Venkatesan and his friend Tr.Rajkumar and both of them were bent upon creating problem to the petitioner. Even though the petitioner is a Station house officer of the Arni Police Station, the Special Sub-Inspector of Police Rajkumar working under him will not obey his orders, but he acted only on the instructions of the Circle Inspector Venkatesan. While such being the position, the petitioner submitted a report to the Deputy Superintendent of Police-Mr.Ganeshkumar about the administration and



W.P.No.34010 of 2024

WEB COPY

happenings in the Police Station, who orally instructed to the petitioner to post Tr.Rajkumar, SSI in the outpost of Periyapalayam Police Station and to post one Tr.Kumarasamy as a Writer of the Police Station. Aggrieved over this, on the advice of the Inspector of Police, Tr. Rajkumar tampered the General Diary of the Police Station by posting himself as the Station writer of the Arni Police Station by removing the name of Tr.Kumarasamy as such and suo moto posted Tr.Kumarasamy in the outpost of Periyapalayam Police Station. On the report of the petitioner to the Deputy Superintendent of Police Ganeshkumar, to the Superintendent of Police (SB Report), Tr.Rajkumar, SSI was transferred to Armed Reserve as a punishment, from Law and order. In order to revenge against the petitioner by the SSI Rajkumar and Circle Inspector Venkatesan, they gave false information and collected materials, misrepresented to the Deputy Superintendent of Police Ganeshkumar, who forwarded information to the DIG of Police, who inturn transferred the petitioner from Tiruvallur District to Chengalpattu District on administrative grounds (not on adverse grounds), as if, in order to avoid further complication in the Arni Police Station and the petitioner reported for duty in February 2024. In the absence of the petitioner, some statements



W.P.No.34010 of 2024

have been created as if obtained from Tvl.Murali, Selvaraj and Ramraj and based on their statements, a preliminary enquiry was conducted by the Additional Superintendent of Police Tmt.Meenakshi behind the back of the petitioner and thereafter a charge memo came to be issued.

3. Learned Senior Advocate appearing for the petitioner would submit that after receiving the charge memo, the petitioner submitted his request to furnish him copies of the documents mentioned in Annexure-3 to the charge memo and also the statement of witnesses mentioned in Annexure- 4 to the charge memo who are proposed to be examined in the oral enquiry for the purpose of defending himself effectively in the departmental proceedings, but the same was not furnished to the petitioner. Even without waiting for the petitioner to submit his explanation after furnishing of the documents, the entire disciplinary proceedings were commenced and concluded in total violation of the principles of natural justice, besides in biased manner. It is expected that the delinquent officer is furnished with the copies of the documents and statements relied by the Department in support of the charges, immediately after the issuance of the charge memo and directed the petitioner to submit explanation. In this case, admittedly no such



W.P.No.34010 of 2024

exercise or procedure has been followed by the 2nd and 3rd respondents either after the appointment of the enquiry officer and after the examination of the witnesses. Hence, entire disciplinary proceedings is commenced and concluded in total violation of the principles of natural justice, besides in biased manner cannot be sustained. He further submitted that the respondents failed to see that as per the decision of the Hon'ble Supreme Court, the delinquent officer must be furnished with the copies of the documents mentioned in Annexure 3 & 4 to the charge memo which is relied upon for the purpose of proof of the charges. The petitioner after receiving the charge memo made a representation to furnish him copies of the documents mentioned in the Annexure 3 & 4 to the charge memo and further stated that he would submit his explanation on receipt of the documents, but the petitioner did not receive any communication from the respondents or from other officials. The petitioner received message over phone and a DTO message for appointment of the enquiry officer and also phone calls from the office of the 3rd respondent to attend the oral enquiry. The impugned DTO message itself is a proof to show that the petitioner was neither furnished with the copies of the documents mentioned in the Annexure-3 and 4 nor



W.P.No.34010 of 2024

WEB COPY

allowed to peruse either before the commencement of the oral enquiry or after the commencement of the oral enquiry. Moreover, the petitioner also given a detailed representation on 02.11.2024 addressing the respondents 1 to 3 and the same was acknowledged by them for which, there was no response in writing, except issuing another impugned DTO dated 'nil' directing the petitioner to appear before the enquiry officer on 04.11.2024. Aggrieved by the same, the present writ petition has been filed by the petitioner.

4. Learned Government Advocate appearing for the respondents would submit that the respondents will furnish all the documents and the statement of witnesses to the petitioner and the case of the petitioner will be considered by the respondents on its own merits and in accordance with law.

5. In view of the same, without going into the merits of the case, this Court directs the respondents authorities to furnish all the documents and the statement of witnesses which are required to be furnished to the petitioner and also directed to conduct a fresh oral enquiry on 09.12.2024 by affording an opportunity of personal hearing to the petitioner and also to all the parties concerned and pass appropriate orders on merits and in



W.P.No.34010 of 2024

accordance with law, within a period of eight(8) weeks thereafter.

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6. With the above direction, the Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

03.12.2024

msv

Note: Registry is directed to issue order copy on 05.12.2024.

Index:Yes/No

Speaking order/Non-speaking order

To

1.The Deputy Inspector General
of Police

Kancheepuram Range
Kancheepuram.

2.The Deputy Superintendent of Police
Thiruthani Sub-Division
Thiruthani, Thiruvallur District.

3.Mr.Kandan
Deputy Superintendent of Police
Thiruthani Sub-Division
Thiruthani, Thiruvallur District.

V.BHAVANI SUBBAROYAN,J.



WEB COPY



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