



WEB COPY



W.P.No.35392 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.01.2024

CORAM :

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.35392 of 2023

and

W.M.P.No.35364 of 2023

P.Arumugam

...Petitioner

-Vs-

1) The Commissioner of Police,
Salem City Police,
Salem0636 006.

2) The Deputy Commissioner of Police (Headquarters),
Salem City Police,
Salem.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records relating to the Order in (1) Proceedings No.6/H1/2020 dated 28.06.2023 passed by the 2nd respondent and (2) proceedings No.H1/AP.No.9/23, dated 23.08.2023 passed by the 1st respondent to quash the same and to issue consequential directions to the respondents to reinstate the petitioner in service with consequential benefits of continuity of service, back-pay and to regularise the period of suspension from 14.12.2019 to 28.06.2023 as duty for all purposes within a limited time frame.



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For Petitioner : Mr.M.Ravi

For Respondents : Mr.U.Baranidharan,
Additional Government Pleader

ORDER

This writ petition has been filed challenging the order passed by the 2nd respondent dated 28.06.2023 in Proceeding No.6/H1/2020 thereby imposed punishment of compulsory retirement which was confirmed by the order of the first respondent dated 23.08.2023 in Proceeding No.H1/AP.No.9/23.

2. Heard, the learned counsels appearing on either side.

3. The petitioner originally joined as Police Constable Grade-II and subsequently he was promoted for the post of Head Constable with effect from 01.05.2014. Thereafter, he involved in criminal case in Crime No.157 of 2019 registered for the offences under section 120(b), 420, 294(b), 323, 324 and 506(ii) of IPC and u/s.4 of TamilNadu Prohibition of Harassment of Women Act. In pursuant to the registration of FIR, the petitioner was placed under suspension. The petitioner was served with

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charge memo dated 13.03.2020 under rule 3(b) of the TamilNadu Subordinate Service (D&A) Rules. The charges are as follows:

Charges:

"1. While working in the Police Control Room, Salem City Police, Tr.P.Arumugam, H.C.1967, along with his colleagues approached one Tr.Uma Shankar, S/o.Venkatachalam, residing at TVS Colony, Meenakshi Nagar, Hasthampatti, Salem on 16.05.2019 at about 10.15a.m., took him to Erode, promising him that he would obtain Golden Coins at lesser rate and gave him fake Gold Coins and obtained Rs.5 lakhs from him and further he and his colleagues snatched the fake Golden Coins from Tr.Uma Shankar and also did not repay the amount got from him inspite of his demands. But he has assaulted Tr.Uma Shankar and his mother Usha Devi, when they demanded repayment of the amount and he has also threatened them with murder, that the victims made complaint with Hasthampatti P.S. and on the basis of the said complaint, FIR was registered in Crime No.157 of 2019 U/s.120B, 420, 294(b), 323, 324 and 506(ii) IPC and u/s.4 of TNPHW Act and he has been arrayed as 1st accused, which is a reprehensible act.

2. While serving in the dignified Police Department in order to protect the public, instead of giving protection to the



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public accordingly, he has cheated Tr.Uma Shankar, S/o. Venkatachalam, and fetched money from him, thereby causing disrepute to the fair name of the Police Department, which is violative of Rule 24 of the TamilNadu Police Subordinate Service Conduct Rules 1964. surrendered.

3. Having been aware of the complaint against him in Hasthampatti P.S., and investigation undertaken, he had falsely reported to the Department that he has been suffering from ill health and requested to grant Medical Leave from 05.08.2019 to 09.01.2019 and at the same time, approached the Hon'ble High Court and filed Crl.O.P.No.24645/2019 for anticipatory bail and obtained order dated 25.09.2019 and thereafter surrendered before the Judicial Magistrate No.III, Salem and had been affixing signature both in the morning and in the evening in Hasthampatti P.S., which is a reprehensible act."

4. On receipt of the charge memo, the petitioner on 15.10.2022 submitted his explanation. In which, enquiry officer was appointed and conducted enquiry. The enquiry officer held that the charges were not proved against the petitioner. However, without accepting the same, the 2nd respondent had issued Dissenting note and called for explanation from the petitioner. The petitioner submitted explanation. Without satisfying with



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the same, the 2nd respondent passed final order on 28.06.2023, thereby imposed punishment of "Compulsory Retirement". Aggrieved by the same, the petitioner preferred appeal before the first respondent and the same was also dismissed. The 1st respondent also confirmed the order of punishment imposed by the 2nd respondent.

5. On perusal of records revealed that though the charges were held as not proved by the enquiry officer, the 2nd respondent did not agree with the findings of the enquiry officer and sent dissenting note on 02.06.2023. After giving opportunity, the 2nd respondent passed final order and thereby imposed punishment of Compulsory Retirement. The petitioner so far involved in the following cases:

"i) St.Thomas Mount Police Station Crime No.86/98 u/s.307 IPC @ 302 IPC (Murder of one Poovaraghavan, Head Constable No.2182, Armed Reserve formerly Chengelpet East District) - Acquitted by the Court due to hostile witnesses.

ii) Salem City- Annandanapatty Police Station Crime No.314/2005 u/s.353, 506(ii) IPC - got acquittal by the Court.

iii) Salem City- Hasthampatty Police Station Crime



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No.944 of 2009 u/s.341, 323, 294(b) IPC - got acquittal by the Court of J.M.III, Salem on 04.09.2009 in C.C.No.133/2009.

iv) Salem City Fairlands Police Station Crime No.617/2010 u/s.341, 294(b), IPC & 4(1)(j) of TNP Act - got acquittal by the Court of J.M.IV, Salem on 23.11.2010 in C.C.No.19/2013.

v) Salem City-Annadanapatty Police Station Crime No.75/2012 u/s.294(b), 332, 506(ii) IPC and 4(1)(j) of TNP Act - got acquittal by the Court of J.M.IV, Salem on 29.01.2004 in C.C.No.19\2013.

vi) Salem City Hasthampatty P.S. Cr.No.157\2019 u/s.102(b), 420,341, 392, 416, 294(b), 323,324, 506(ii) IPC and 4 of Women Harassment Act."

Out of which, except Sl.No.6 other cases ended in acquittal.

6. The case registered in Crime No.157 of 2019 on the file of the Inspector of Police, Hasthampatty Police Station, Salem City is pending for trial in C.C.No.11 of 2020 on the file of the Additional Mahila Court,Salem. In pursuant to the involvement of the criminal cases, the 2nd respondent initiated disciplinary proceedings against the petitioner and imposed following punishments:



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S.No.	P.R.No.	u/r	order passed	Punishment
1	F2/PR 50/04	3(a)	AC/AR/CBE City	Postponement of next increment for one year without cumulative effect and period shall not operate postpone future increments Dt. 13.09.2004.
2	PR.No.96/H2/2004	3(a)	AC/AR/Salem	Black Mark Dt: 14.03.2015
3	PR.No.92/H1/2004	3(b)	DC/L&O/Salem City	Postponement of increment for three years without cumulative effect Dt: 05.04.2005 As per W.P.No.26685/2007 of High Court/Chennai Dt. 09.08.2007 and Proc.No.92/H1/2004, dated 26.10.2007 of COP/Salem city, the above punishment modified to postponement of increment for one year without cumulative effect from 04.04.2005.
4	PR.No.19\H1\2005	3(b)	DC/Cr.&Tr./Salem City	Removal from Service Dt: 27.09.2005 CPO No.312/2007, C.No.H1/PR.No.19/05 Dated 02.04.2007. He is reinstated into



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<i>S.No.</i>	<i>P.R.No.</i>	<i>u/r</i>	<i>order passed</i>	<i>Punishment</i>
				service with immediate effect, in pursuance to the orders passed by the High Court, Chennai in W.P.No.2419/2006, Dated 13.12.2006.
5	PR.No.44/H1/2009	3(b)	DC/L&O/Salem City	Reduction in time scale of pay by two stages for two years with cumulative effect, Dated 26.11.2010. Appeal petition rejected by the COP, Salem City on 28.04.2011.
6	PR.No.44/H1/2010	3(b)	DC/L&O/Salem City	Postponement of Increment for one year with cumulative effect, Dated 30.12.2011. Appeal petition rejected by the COP, Salem City on 10.03.2012.
7	PR.No.07/G1/2016	3(b)	SP/Salem	Postponement of increment for one year without cumulative effect Dt: 20.09.2016.

7. Therefore, the 2nd respondent rightly issued dissenting note against the report submitted by the enquiry officer and after giving



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opportunity to the petitioner on the dissenting note, the petitioner was imposed with a penalty of Compulsory Retirement.

8. Therefore, this court finds no infirmity or illegality in the orders passed by the respondents. Hence, this writ petition is devoid of merits and liable to be dismissed. Accordingly, this Writ Petition is dismissed. No costs. Consequently the connected miscellaneous petition is closed.

03.01.2024

Index : Yes/No
Internet: Yes/No
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G.K.ILANTHIRAIYAN,J.
gvn



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To

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Salem City Police,
Salem0636 006.
- 2) The Deputy Commissioner of Police (Headquarters),
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