



WP(MD)No.3529 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 18.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

WP(MD)No.3529 of 2022

S.Sharmila

... Petitioner

Vs

- 1.The Director General of Police,
Mylapore, Chennai – 600 004.
- 2.The Additional Director General of Police,
Law and Order, Chennai – 600 004.
- 3.The Inspector General of Police (Administration),
Office of the Director General of Police,
Chennai.
- 4.The Commissioner of Police,
Madurai District,
Madurai.
- 5.The Secretary,
Home, Prohibition and Excise Department,
State of Tamil Nadu,
Secretariat, Chennai.

...Respondents

[R5 is suo motu impleaded vide
order dated 20.11.2024]

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of certiorarified mandamus calling for the



WP(MD)No.3529 of 2022

records relating to the impugned order of punishment of 3rd respondent in P.R. No.102/2015 dated 03.08.2018, as confirmed by the impugned order of the 2nd respondent in RC.No. 163136/AP.2(3)/2018 dated 05.12.2018 and confirmed by the 1st respondent in RC. No. E-74167/AP.2(3)/2019 dated 05.04.2019 and set aside the same as illegal and consequently direct the respondent to promote the petitioner on par with her junior.

For Petitioner : Mr.Muthu Ganesa Pandian

For Respondents : Mr.Veerakathiravan,
Additional Advocate General,
Assisted by
Mr.K.Balasubramanian,
Special Government Pleader

ORDER

The petitioner is a Sub-Inspector of Police. She was subjected to a disciplinary proceedings in PR.No.102 of 2015 on the allegation that the petitioner, while serving as Sub-Inspector of Police, City Crime Branch, has conducted Kangaroo Court, extorted blank cheques from the accused and handed it over to the complainant. The enquiry officer filed a proven minute. Accordingly, the third respondent / disciplinary authority, by order dated 03.08.2018, imposed a punishment of postponement of increment for two years without cumulative effect. The appeal filed by



WP(MD)No.3529 of 2022

the petitioner before the second respondent was dismissed on 05.12.2018 and the revision petition filed by the petitioner before the first respondent was also dismissed on 05.04.2019. The petitioner has thereafter filed a review petition before the Government and the same was rejected on 30.10.2019.

2.The learned Counsel for the petitioner submitted that the petitioner is a subordinate to one Mr.Pethuraj, Inspector of Police in City Crime Branch. The petitioner has conducted the enquiry as per the directions of her higher official, namely, Mr.Pethuraj. The said Inspector of Police was also subjected for disciplinary proceedings on the same set of charges in PR.No.101 of 2015. He was imposed with a punishment of postponement of increment for three years without cumulative effect. The same was confirmed by the appellate and revisional authorities. Thereafter, the said Inspector of Police filed a mercy petition and it was considered by the Government vide G.O.(D)No.604, Home Department, dated 07.05.2020, modifying the punishment to postponement of increment for two years without cumulative effect. Again, the said Inspector of Police filed a second review petition and it was considered



WP(MD)No.3529 of 2022

by the Government again vide G.O.(D)No.1543, Home Department, dated 30.12.2021, modifying the punishment to that of censure. Further the petitioner has filed a second review petition dated 13.12.2020 and it is pending with the government.

3.The learned Additional Advocate General appearing for the respondents submits that the Secretary is having powers under Rule 15 (B) of the Tamil Nadu Police Subordinate Services (Discipline and Appeal) Rules, which empowers the State Government to review its own orders passed previously. According to the learned Additional Advocate General, the government is having power to review its own orders passed previously.

4.The learned Additional Advocate General has also produced the written instructions, which has been provided to him by the Additional Chief Secretary to Government dated 17.12.2024 and submits that the review application of this petitioner is also pending with the Government and considering the conduct of this petitioner the same would also be reviewed within a reasonable time.



WP(MD)No.3529 of 2022

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5.This Court considered the rival submissions made.

6.The respondents have claimed that they have already passed an order dated 05.04.2019 by reviewing the earlier orders in the review application filed by petitioner. The Officer who has also been subjected for disciplinary proceedings and imposed with a punishment along with the petitioner, has approached the government to review its earlier orders and the same was considered by modifying the punishment. The Officer has again approached the government for reviewing its earlier orders and in the 2nd review application the punishment was modified as censure. The petitioner has approached this Court that he has to be treated at par with the other officer.

7. No doubt Rule 15-B of the Tamil Nadu Police Subordinate Service (Discipline and Appeal) Rules enables the State government to review its own orders previously passed. The Hon'ble Supreme Court has in a number of judgments have held that the scope of review is limited and there has to be sufficient reasons provided in order to entrain the review application as follows:



WP(MD)No.3529 of 2022

a. In ***Lily Thomas v. Union of India***, AIR 2000 SC 1650, the Hon'ble Supreme Court has held that the power of review can be exercised for correction of a mistake but not to substitute a view. Such powers can be exercised within the limits of the statute dealing with the exercise of power. The review cannot be treated like an appeal in disguise.

b. In the case of ***Patel Narshi Thakershi vs. Pradyumansinghji Arjunsinghji***, (1971) 3 SCC 844, the Hon'ble Supreme Court has held that the power of review is not an inherent power. It must be conferred by law either specifically or by necessary implication. The review is also not an appeal in disguise.

c. What can be said to be an error apparent on the face of the proceedings has been dealt with and considered by the Hon'ble Supreme Court in the case of ***T.C. Basappa vs. T. Nagappa***, AIR 1954 SC 440 held that such an error is an error which is a patent error and not a mere wrong decision.



WP(MD)No.3529 of 2022

8.This power under Rule 15-B of The Tamil Nadu Police Subordinate Services (Discipline and Appeal) Rules cannot be used as a power of routine by the Government to pass orders in a mechanical manner. If the Government is inclined to review its own decisions already taken, then reasons must be assigned for reviewing the orders. It is reported that this petitioner has also filed a 2nd review application before the government, which needs to be considered in the light of the subsequent developments and therefore this writ petition is disposed of with a direction to the Government to review the orders passed as against the petitioner in the light of orders passed as against the co-delinquent officers. No costs.

18.12.2024

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WP(MD)No.3529 of 2022

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WP(MD)No.3529 of 2022

B.PUGALENDHI.J.,

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WP(MD)No.3529 of 2022

18.12.2024