



W.P.(MD)No.12960 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 04.12.2024

CORAM:

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

**W.P.(MD)No.12960 of 2022**  
**and W.M.P.(MD)No.9206 of 2022**

G.Sivaraj

... Petitioner

versus

1. The Additional Chief Secretary to the  
Government of Tamilnadu,  
Home Department,  
Chennai.
2. The Director General of Police,  
Chennai.
3. The Additional Director General of Police,  
Law & Order,  
Chennai.
4. The Deputy Inspector General of Police,  
Tiruchirappalli.
5. The Superintendent of Police,  
Ariyalur District,  
Ariyalur.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India,  
seeking for the issuance of Writ of Certiorari, to call for the records of the  
impugned G.O.(D)No.1429 Home (Police-IV) Department dated 08.12.2021



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on the file of the 1<sup>st</sup> respondent and quash the same insofar as imposing the punishment of postponement of increment for two years.

For Petitioner : Mr.G.Prabhu Rajadurai

For Respondents : Mr.G.V.Vairam Santhosh,  
Additional Government Pleader

### **ORDER**

The petitioner, an Inspector of Police, was dealt with a disciplinary proceedings under Rule 3(b) of the Tamil Nadu Police Subordinate Services (Discipline and Appeal) Rules 1955, in PR.No.29/2019. This disciplinary proceedings was initiated, pursuant to the direction of State Human Rights Commission, vide its order dated 27.11.2018 in SHRC Case No.9694 of 2015. The State Human Rights Commission passed an order directing the Government to recover a sum of Rs.10,000/- from the petitioner and other officers and also recommended to initiate disciplinary proceedings against them. The order of the State Human Rights Commission in SHRC Case No. 9694 of 2015, dated 27.11.2018, was challenged by the petitioner before this Court in W.P.No.9709 of 2019. This Court, while entertaining W.P.No.9709 of 2019, has passed an interim order on 03.04.2019 as under:

“Notice to the respondents returnable by



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10.06.2019. Private notice is also permitted.

2. We stay the direction to recover the amount of Rs.10,000/- from the petitioner and the recommendation to initiate disciplinary proceedings against him. However, we make it clear that this interim order would not stand in the way of the Government in taking disciplinary action against the petitioner in case the Government is of the independent view that such action is necessary.”

Since this Court has permitted the Department to proceed with the disciplinary proceedings, a charge memo dated 26.06.2019 was issued under Rule 3(b) of the Tamil Nadu Police Subordinate Service (Discipline and Appeal) Rules that the petitioner has seized 9 sovereigns of jewels and a sum of Rs.15,000/- from one Selvaraj, owner of the Sri Pavithra Jewelry, Perambalur, but, the same was not accounted with any criminal case nor any police station and also not produced before any Court in Ariyalur District. The Enquiry Officer, namely, the Superintendent of Police, Pudukkottai District, conducted an enquiry and held that the charges are proved, vide his Minute dated 20.02.2020. Based on the proved Minute, the disciplinary authority, namely, the Deputy Inspector General of Police, Trichy Range,



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agreed with the findings of the Enquiry Officer and imposed a punishment of compulsory retirement, vide his order dated 20.4.2020. Challenging the same, the petitioner has preferred an appeal before the Additional Director General of Police (Law and Order), Chennai and the same was rejected by order dated 24.07.2020. Thereafter, the petitioner has filed a mercy petition before the Director General of Police, Chennai, on 01.10.2020. The said petition was treated as a review petition and the same was rejected by the Director General of Police, Chennai, by his order dated 07.03.2021. Thereafter, the petitioner has preferred another mercy petition before the Government, requesting to cancel the punishment of compulsory retirement imposed on him in PR.No.29/2019. The Government, vide G.O.Ms.No. 1429, Home (Police-IV) Department, dated 08.12.2021, has modified the punishment of compulsory retirement imposed on him in PR.No.29/2019 into that of postponement of increment for two years without cumulative effect. The order of punishment modified by the Government in G.O.Ms. No.1429, dated 08.12.2021, is challenged in this writ petition.

2. The learned counsel appearing for the petitioner submits that two other officers accompanied the petitioner in the alleged occurrence were left



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with a minor punishment of penalty of Rs.12,000/-, which has to be recovered from their pension as Rs.1,000/- p.m. However, a major punishment of compulsory retirement was imposed against the petitioner. On the mercy petition filed by the petitioner, the Government also, without considering the nature of punishment imposed against the co-delinquents, imposed a punishment of postponement of increment for two years without cumulative effect against the petitioner.

3. The learned counsel for the petitioner further submits that the petitioner is not the Investigating Officer in Crime Nos.8 of 2015 and 107 of 2015 on the file of the Thirumanur Police Station, however, he has been held responsible. He further submits that the enquiry itself is vitiated, since the Department has proceeded with the disciplinary proceedings, based on the order of the State Human Rights Commission in SHRC Case No.9694 of 2015, dated 27.11.2018. When the same was challenged in W.P.No.9709 of 2019, this Court has also granted an order of interim stay on 03.04.2019.

4. The learned Additional Government Pleader submits that based on the direction of the State Human Rights Commission only, the departmental



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proceedings was initiated. This Court, while entertaining the writ petition filed by the petitioner in W.P.No.9709 of 2019, has permitted the Government to proceed with the departmental proceedings and therefore, the petitioner is not correct that this Court has granted an order of interim stay on the departmental proceedings. The learned Additional Government Pleader further submits that the petitioner has seized 9 sovereigns of jewels and Rs.15,000/- from one Selvaraj, owner of Sri Pavitra Jewellery, Perambalur, but, the same was not accounted with any criminal case nor any police station and also not produced before any court in Ariyalur district. This, according to the learned Additional Government Pleader, is a misconduct, which is liable to be dealt with by initiating disciplinary proceedings.

5. The learned Additional Government Pleader further submits that though the petitioner was imposed with a punishment of compulsory retirement, the Government, vide G.O.Ms.No.1429, Home (Police-IV) Department, dated 08.12.2021, modified the punishment of compulsory retirement into a lenient punishment of postponement of increment for two years without cumulative effect. The learned Additional Government



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Pleader has also pointed out the scope of review by this Court in the order of punishment.

6. This Court considered the rival submissions made and also produced the materials placed on record.

7. The petitioner was dealt with a disciplinary proceedings in PR No. 29 of 2019 on serious allegations. Based on the enquiry report, the disciplinary authority, by its order dated 20.04.2020, imposed a punishment of compulsory retirement. The order of punishment imposed by the disciplinary authority was also confirmed by the appellate authority and the revisional authority. However, the same was modified by the Government in G.O.Ms.No.1429, Home (Police-IV) Department, dated 08.12.2021 as under:

“4. The Government have examined the petitions of Thiru.G.Sivaraj, Inspector of Police (now on compulsory retirement), Ariyalur Police Station, Ariyalur District carefully along with the relevant records. After taking a lenient view based on the points mentioned in the representation given by the individual and with a view to



give him a final opportunity to correct himself, the Government have decided to modify the punishment of “Compulsory Retirement” imposed on him in PR.No. 29/2019 into that of “Postponement of increment for two years without cumulative effect” and order accordingly.”

It is seen that the modification order passed by the Government is without any details and without any reasons.

8. The petitioner claims that two other persons have also been dealt with in PR No.29/2019 on the very same allegations, however, they have been imposed with a lenient punishment and the petitioner alone was imposed with the major punishment. The petitioner further claims that he is in the verge of retirement.

9. Considering the manner in which the order of modification was passed without any reasons, this Court is inclined to allow this writ petition by setting aside the impugned G.O.Ms.No.1429 dated 08.12.2021.

10. Accordingly, this writ petition is allowed, by setting aside the impugned G.O.Ms.No.1429 Home (Police-IV) Department dated



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08.12.2021 and the matter is remanded back for fresh consideration by the first respondent. Since the petitioner is in verge of retirement, this Court directs the first respondent to take a decision on the punishment imposed as against the petitioner in PR No.29 of 2019, on or before 31<sup>st</sup> March 2025. No costs. Consequently, connected miscellaneous petition is closed.

**04.12.2024**

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NCC : Yes / No.

Index : Yes / No.

Internet : Yes / No.

To

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2. The Director General of Police,  
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**B.PUGALENDHI, J.**

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