BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **26.07.2024**

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD) No.17136 of 2024
and
W.M.P(MD)Nos.14778 & 14779 of 2024

P.Saravanakumar ... Petitioner

Vs.

1. The Transport Commissioner,
Commissionerate of Transport and Road Safety,
Chepauk,
Chennai.

2. The Regional Transport Officer,
O/o. the Regional Transport Officer,
Tenkasi. ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 1st respondent vide his proceedings in Proc. R.No. 34695/VA2/2022 dated 12.06.2024 and quash the same as illegal and consequentially to direct the respondents to include the name of the petitioner in the panel of Assistant fit for promotion to the post of Superintendent for the year 2020-2021 and consequentially confer all other service and monetary benefits.

For Petitioner	:	Mr.Ajmal Khan Senior Counsel for M/s.Ajmal Associates
For Respondents	:	Mr.S.Shanmugavel – for R1 to R3 Additional Government Pleader

ORDER

The present writ petition has been filed seeking a Writ of Certiorarified Mandamus, challenging the order of punishment, dated 12.06.2024 and with a consequential direction to include the petitioner's name in the promotional panel to the post of Superintendent for the year 2020 -2021.

2. Heard Mr.Ajmal Khan, learned Senior Counsel appearing for the petitioner and Mr.S.Shanmugavel, learned Additional Government Pleader appearing for the respondents 1 to 3.

3. By consent of both parties, this writ petition is taken up for final disposal at the stage of admission itself.

4. The petitioner, who was an Assistant in Puliyarai check post under the control of Regional Transport Office, Tenkasi has been issued with a memo alleging that from one of the vehicle owners who passed the check post, he collected a sum of Rs.4,440/- but he has given a receipt for Rs.3,440/- initially. The charge would also say that the receipt for the remaining Rs.1,000/- has been given by a separate receipt and corrections have been carried out the check report as Rs.4,440/- as tax and compounding fees. So the petitioner has been charged for the irregularity and negligence in his duties with dishonest motive.

5. The petitioner was subjected to disciplinary enquiry, in which, the enquiry officer has given a report stating that the charges have not been proved. However the appropriate authority had taken a contrary view after giving an opportunity to the petitioner to make his submission and recorded a finding that the charges have been proved and thereafter, imposed with a punishment of censure. The petitioner

has filed this writ petition on the ground that the appropriate authority did not appreciate the findings of the Enquiry Officer and the representation of the petitioner in a proper manner and he has not assigned any reasons for imposing punishment of censure on the petitioner.

6. Even though the petitioner had collected Rs.4,440/- from one of the vehicle owners, he had given one receipt for Rs.3,440/- and later, he had given another receipt for Rs.1,000/-. But in the order, it appears that the petitioner had issued Rs.1,000/- receipt only after 20 minutes quarrel. No doubt, whenever any amount is collected in the toll or check post, the authority concerned has to pass the receipt for whatever amount is collected. The petitioner, for the reasons best known, did not give receipt for Rs.4,400/- in the first instance, but withheld a sum of Rs,1000/- and later passed the receipts. This had creates doubts in the mind of the appropriate authority and he had taken a contrary view that the petitioner had acted with an intention of some dishonest motive. The above observation of the appropriate authority is probably, because he had presumed that the petitioner had intended to

retain Rs.1,000/- and later due to pressure, passed receipts for Rs.1,000/-. However, the Enquiry Officer has taken a lenient view in view of the fact that the petitioner had passed receipt for all the money collected and that the charge against the petitioner is not proved.

7. The learned counsel for the petitioner submitted that the complainant did not press his complaint and he deposed evidence by not making any allegations against the petitioner. Further the petitioner had remitted the amount collected to the Treasury by adopting the usual procedures.

8. No doubt, the act on the part of the petitioner for passing separate bill for Rs.1,000/- after a delay is a matter of concern. However, no dishonest motive can be attributed against the petitioner in the absence of any evidence on this aspect from the side of the complainant, who was actually aggrieved. Having said that the petitioner's attitude cannot be encouraged, I would only say in the absence of any dishonest motive or any substance to prove the dishonest motive on the part of the petitioner, it would have been suffice that the

petitioner be warned instead of imposing a punishment of censure which will have a ramification on his career progress of the petitioner.

9. The petitioner did not choose to file any appeal or review and had chosen to file this writ petition directly. Since the order passed by the appropriate authority goes to the route of the principles of natural justice, passed without appreciating the fundamental facts before arriving at a finding on dishonest intention on the part of the petitioner, I feel that the matter requires direct interference and the impugned order is liable to be set aside.

10. Since such interference can be done only on exceptional circumstances and not in a routine fashion, the above relief given to the petitioner is only based upon the nature of the allegations and the manner in which the conclusion for imposing punishment was arrived at by the appropriate authority and hence, not in any routine fashion.

11. In view of the above stated reasons, the writ petition is allowed and the impugned order dated 12.06.2024 of the 1st respondent

is set aside. However, the respondents are at liberty to issue 'warning' to the petitioner stating that the petitioner should not repeat such kind of conduct and act consumer friendly. No costs. Consequently, connected miscellaneous petitions are closed.

26.07.2024

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
RM

To

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Chepauk,
Chennai.

2. The Regional Transport Officer,
O/o. the Regional Transport Officer,
Tenkasi.

R.N.MANJULA, J.

RM

Order made in
W.P.(MD)No.17136 of 2024

26.07.2024