



W.P.(MD).No.20196 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.12.2024

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD)No.20196 of 2024

and

W.M.P(MD)Nos.17141 & 22793 of 2024

T.Gajendran

... Petitioner

Vs

1.The Superintendent of Police,
Theni District,
Theni.

2.The Deputy Superintendent of Police,
Periyakulam Sub Division,
Theni District.

3.A.Soorakumaran

...Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a writ of Certiorari, calling for the records relating to the impugned punishment order dated 13.09.2024 in DO.No.904/2024 issued by the first respondent herein and quash the same.

For Petitioner	: Mr.V.R.Shanmuganathan
For Respondent Nos.1&2	: Mr.D.Sasikumar Additional Government Pleader
For Respondent No.3	: No appearance



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ORDER

The instant writ petition has been filed by a Inspector of Police, challenging the punishment order imposed on him on 13.09.2024, wherein, an order of Censure has been passed.

2. For the delinquency that had happened in July 2024, the petitioner was issued with a charge memo on 22.07.2024. It could be seen from the records that the charge memo was served upon the writ petitioner only on 09.08.2024, granting him fifteen days time to submit his explanation. The petitioner had initially filed this writ petition on 21.08.2024, with a prayer to quash the charge memo. Immediately on 23.08.2024, the petitioner has addressed a communication to the respondents stating that he is awaiting for the disposal of the writ petition for submission of his explanation. The first respondent herein has proceeded to pass an order of punishment on 13.09.2024, imposing punishment of Censure. Thereafter, the petitioner has filed an application to amend the prayer so as to challenge the order of punishment and the same is also been allowed.



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3. According to the learned Counsel appearing for the writ petitioner, the order of punishment has been issued on the ground that the delinquent has not submitted his explanation within the stipulated time and therefore it should be construed that the delinquent has nothing to submit his explanation and he had accepted the commission of delinquency. According to him, when he had filed a writ petition, challenging the charge memo and informed the first respondent about the pendency of the writ petition, the present impugned order ought not to have been passed. Therefore, the impugned order is in violation of principles of natural justice and the same is liable to be set aside.

4. Per contra, the learned Additional Government Pleader appearing for the respondents herein had contended that though notice was ordered in the writ petition that there were no interim orders and the petitioner was at liberty to submit his explanation. Since he had not submitted his explanation, the authorities have proceeded to pass the present impugned order imposing punishment of censure. Hence, he prayed for sustaining the order of punishment.

5. I have carefully considered the submissions made on either side and perused the materials available on record.



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6. Initially, the writ petition has been filed challenging the charge memo issued under Rule 3(a) of Tamilnadu Police Subordinate Services Disciplinary Appeal Rules, 1955 dated 22.07.2024. The writ petition was filed on 21.08.2024. Though, the charge memo dated 22.07.2024, it has been served upon the petitioner only on 09.08.2024. In other words, the petitioner has got time up to 24.08.2024 to submit his explanation. Even on 23.08.2024, the petitioner has addressed a communication to the first respondent that he is awaiting the orders of this Court to submit his explanation. However, without considering the said letter or without even referring to the pendency of the writ petition challenging the charge memo, the present impugned order has been issued on 13.09.2024, on the ground that the petitioner has not submitted his explanation.

7. In view of the above said facts, it is clear that the order of punishment has been imposed without giving due opportunity to the writ petitioner. In view of the above said facts, the order dated 13.09.2024, imposing punishment to the writ petitioner is hereby set aside and the matter is remitted back to the file of the first respondent herein. The writ petitioner is directed to submit his explanation within a period of four weeks from the date of receipt of a copy of



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this order. Thereafter, the first respondent is at liberty to pass appropriate orders after considering the explanation submitted by the writ petitioner.

8. With the above said observations, this writ petition stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.

11.12.2024

NCC : Yes/No
Index : Yes/No
Internet: Yes/No
gvn

To

1.The Superintendent of Police,
Theni District,
Theni.

2.The Deputy Superintendent of Police,
Periyakulam Sub Division,
Theni District.



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R.VIJAYAKUMAR, J.

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