



W.P(MD)No.21838 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.21838 of 2019 and
WMP(MD) No.18578 of 2019

M.Devaraj

... Petitioner

Vs

1.The Director General of Police,
Mylapore, Chennai-4.

2.The Deputy Inspector General,
Tirunelveli Range, Tirunelveli.

3.The Superintendent of Police,
Kanyakumari District,
Nagercoil.

4.The Deputy Superintendent of Police,
District Crime Branch,
Nagercoil,
Kanyakumari District.

...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 pertaining to the proceedings of the third respondent in Na.Ka.No.L1PR.95/2014 dated 18/04/2016,



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proceedings of the second respondent in C.No.C4/AP.42/2016 dated 08/06/2016 and proceedings of the first respondent in Rc.No. 140132/AP.2(1) /2016 dated 11/07/2017 and quash the same on the ground that those proceedings are illegal, perverse, biased, unjustified. and without any evidence and also in violation of the principles of natural justice and thus render justice.

For Petitioner : Mr.M.P.Hariprasad
For Respondents : Mr.K.Balasubramani
Special Government Pleader

ORDER

The petitioner, while he was working as a Head Constable in Kaliyarkovil Police Station, he was dealt with a disciplinary proceedings, under Rule 3(b) of the Tamil Nadu Police Subordinate Services(Discipline and Appeal) Rules, 1955 in PR 95 of 2014. The Deputy Superintendent of police, DCB, Nagercoil was appointed as an enquiry officer and he filed a proved minute as against this petitioner. Based upon the proved minute, the Superintendent of Police, Kanyakumari District by his order dated 18.04.2016, has imposed a punishment of "postponement of his next increment for a period of two years, which shall operate to postpone



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his future increments." Challenging the same, the petitioner has filed an appeal before the Deputy Inspector General of Police, Tirunelveli Range. The Appellate authority, by his proceedings in C.No.C4/AP 42/2016, dated 08.06.2016 has modified the punishment as "postponement of increment for a period of one year, which shall not operate to postpone his future increments." As against this order, this petitioner has filed a review petition before the Director General of Police, Tamil Nadu and the same was rejected by the Director General of Police, by order dated 17.02.2018. Thereafter the petitioner has moved a mercy petition, which was also rejected by the Government in G.O.(D) No.661, Home (Police VI) Department, dated 26.06.2019. Therefore, the petitioner has filed this writ petition, challenging the order of punishment imposed on this petitioner in PR No. 95 of 2014.

2. The learned Counsel appearing for the petitioner has canvassed several points to convince this Court to set aside the order of punishment imposed on the petitioner. The main point, which



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needs to be considered by this Court is that though he has sought for certain documents during the enquiry, he was not furnished with the same. Therefore, this petitioner has filed a writ petition before this Court in WP(MD) No.9782 of 2015 and this Court has dismissed the request of this petitioner, by its order, dated 17.06.2015 that the documents requested by this petitioner are not relied upon documents. Therefore, the petitioner has preferred a writ appeal in WA(MD) No.904 of 2015, wherein, the Honourable Division Bench of this Court passed an order, directing the respondents to furnish all the documents requested by this petitioner. Thereafter, the petitioner has requested 41 documents, out of which, he was furnished with 40 documents. The left out document is the note book maintained by the Sub Inspector of police, namely, Gopalan and the notebook of the Special Sub Inspector of Police, namely, Jayakumar. Since the note books maintained by them have been lost, it could not be furnished to the petitioner. It is claimed by the respondents that a separate departmental proceedings have been initiated as against them under Rule 3(a) of the Tamil Nadu Police Subordinate Service



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(Discipline and Appeal) Rules, 1955. This petitioner has filed this writ petition on the ground that since the notebooks of the Sub Inspector and the Special Sub Inspector were not furnished during the disciplinary proceedings, the punishment imposed on the petitioner has to be reviewed and it has to be set aside.

3.The learned Special Government Pleader appearing for the respondents by referring to the detailed counter affidavit filed by the Superintendent of Police, Kanniyakumari submits that the petitioner was dealt with charges under Rule 3(b) of the Tamil Nadu Police Subordinate Services(Discipline and Appeal) Rules, 1955 in PR 95 of 2014. The petitioner was furnished with 40 documents in connection with the charge memo issued as against him. However, he claims that two other documents that is the note book of the Sub Inspector of police, namely, Gopalan and the notebook of the Special Sub Inspector of Police, namely, Jayakumar, which are not relevant to the charge memo issued as against him. Based on the enquiry report that the charges levelled as against this petitioner were



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proved, the petitioner was imposed with a punishment of 'postponement of his next increment for a period of two years, which shall operate to postpone his future increments.' Thereafter, the punishment was modified, on the appeal filed by the petitioner as "postponement of increment for a period of one year, which shall not operate to postpone his future increments.". He further submits that the review petition filed by this petitioner was rejected by the Director General of Police, Chennai in proceedings Rc.No. 140132/AP.2(1)/16, dated 11.07.2017 as the modified punishment is not excessive. His Mercy Petition dated 17.02.2018 was also rejected by the Government in G.O.(D) No.661, Home (Police VI), Department, dated 26.06.2019, as the petitioner did not put forth any fresh grounds to prove his innocence. Therefore, there is no need to interfere with the orders impugned in this writ petition.

4.This Court considered the rival submissions made and also perused the materials placed on record.



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5.The petitioner, while he was working as a Head Constable, Kaliyarkovil Police Station was dealt with a disciplinary proceedings, under Rule 3(b) of the Tamil Nadu Police Subordinate Services(Discipline and Appeal) Rules, 1955 in PR 95 of 2014 as under:-

"i) Highly reprehensible conduct in having manhandled one Vallarasu (aged 16 years), S/o. Mathialagan of Weavers colony, Amsi village and another boy namely Rejith (aged 15 years), S/o. Paulraj, Kadavukulam, Amsi village, Thengapattinam Post, on 23.03.2014 afternoon joining hands with his younger brother Sritharan suspecting that both the boys had committed theft of the cell phone of him placed on his motor cycle while collecting coconuts in his garden at Amsi village.

ii) Highly indisciplinary conduct in having deliberately got himself admitted as an inpatient at Government Hospital, Kuzhithurai on 24.03.2014 for the purpose of creating defence and to safeguard him from the unlawful assault made by him with his younger brother on the two boys namely i) Vallarasu (16/14), S/o. Mathialagan and 2) Rejith (15/14), S/o. Paulraj on 23.03.2014 afternoon.



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iii) Highly reprehensible conduct in having given a fictitious and exaggerated statement during preliminary enquiry held on 24.06.2014 as if his gold chain weighing 5 sovereigns worth Rs. 1,10,000/- was snatched away by a gang of 10 named persons hailing from Weavers colony, Amsi, Thengapattinam on 23.03.2014 AN with a malafide intention to strengthen his false complaint given on 24.03.2014 at Government Hospital, Kuzhithurai to SSI Atchuthan which was treated in CSR No. 131/2014 of Puthukkadai Police Station."

6.The respondents have relied upon 21 documents, in Annexure 3 of the charge memo and all those 21 documents were furnished to this petitioner. The petitioner has also acknowledged the receipt of those documents. However, by his further representations dated 26.11.2014, 19.12.2014 and 08.01.2015, this petitioner has sought for 40 other documents, which were not cited and relied upon by the Department. He has made a further representation, for which he was informed by the disciplinary Authority by letter dated 23.01.2015 that the other documents sought for by the petitioners are not relevant to the charge memo issued as against him. This letter



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dated 23.01.2015 of the Disciplinary Authority is challenged by way of a writ petition before this Court in WP(MD)No.2691 of 2015.

This Court, by order dated 06.04.2015 has disposed of that writ petition with a direction to the petitioner that in case of any relevancy of documents, he shall make a fresh request to the respondents by way of filing a representation, within a period of two weeks and on receipt of such representation, if the respondents are satisfied with the request, they shall either furnish the documents or pass appropriate orders on the representation of the petitioner, within a period of two weeks. Thereafter, the petitioner has made another representation to the respondents and it was rejected, by order dated 11.06.2015. Challenging the same, the petitioner has once again filed a writ petition in WP(MD) No.9782 of 2015, which was dismissed by this Court, by order dated 11.06.2015. As against the order of this Court in WP(MD) No.9782 of 2015, the petitioner has filed a writ appeal in WA(MD) No.904 of 2015, before the Division Bench of this Court, wherein, the Division Bench, by its order dated 26.08.2015 has allowed the writ appeal with a direction to the first



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respondent to furnish copies of all the documents mentioned in the representation of the petitioner, dated 01.08.2015. Thereafter, this petitioner was furnished with 40 documents, However, the Department has taken a specific stand that those 40 documents are irrelevant to the charges levelled as against this petitioner. It appears that the Diaries of the Sub Inspector and Special Sub Inspector alone have not been furnished to this petitioner that those documents have been misplaced. Thereafter, this petitioner has participated in the enquiry and on completion of the enquiry, he was imposed with the punishment and it was also modified by the appellate authority. Review petition as well as the mercy petition filed by the petitioner were rejected by the authorities. The respondents have taken a specific stand that the Diaries, which are expected to be maintained by the Sub Inspector of Police and the Special Sub Inspector of police have not been maintained and for the lost of those Diaries, they have been issued with a charge memo under Rule 3(a) of the Tamil Nadu Police Subordinate Service (Discipline and Appeal) Rules, 1955. The petitioner has not made out any case as to how he



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is aggrieved by the order of punishment, merely for non production of those diaries, which ought to have been maintained by his superior officers and how the misplaced Diaries are relevant to the charges levelled as against this petitioner. Therefore, this Court is not inclined to accept the case of this petitioner that for non-furnishing of the Diaries, which have already been lost, the petitioner can be exonerated from the charges.

7.In view of the foregoing reasons and discussions, this writ petition is dismissed. No costs. Consequently, connected Miscellaneous petition is closed.

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NCC:Yes/No
Index:Yes
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B.PUGALENDHI, J.

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