



W.P.(MD)No.11191 of 2017

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.08.2024

CORAM

THE HON'BLE MR.JUSTICE ABDUL QUDDHOSE

W.P.(MD)No.11191 of 2017

and

W.M.P.(MD)Nos.8582 & 8583 of 2017

S.Rajapandian

: Petitioner

Vs.

- 1.The State of Tamil Nadu,
Represented by the Secretary,
Department of Home Prohibition and Excise,
Fort St. George,
Chennai.
- 2.The Director General of Police,
O/o. the Director General of Police,
No.601, Radhakrishnan Salai,
Mylapore,
Chennai – 04.
- 3.The Additional Director General of Police,
O/o. The Additional Director General of Police,
No.601, Radhakrishnan Salai,
Mylapore,
Chennai – 04.



W.P.(MD)No.11191 of 2017

4.The Inspector General of Police,
O/o. the Inspector General of Police,
Q Branch CID,
No.601, Radhakrishnan Salai,
Mylapore,
Chennai – 04.

5.The Superintendent of Police,
O/o. The Superintendent of Police,
Nagercoil,
Kanyakumari District.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in C.No.D1/Q/119/4872/2012 in D.O.No.144/2013 dated 08.02.2013 on the file of the fourth respondent and its consequential order of the appellate authority in Rc.No.065892/AP.4(2)/2013 dated 20.12.2013, on the file of respondent No.3 and the consequential impugned order in R.C.No.130774/AP IV(2)/2014 dated 06.12.2014 on the file of the second respondent and consequential order in G.O.(D)No.1066 Home (Police VI) Department dated 01.11.2016, on the file of the first respondent and quash the same as illegal and consequently to direct the respondents 1 to 4 to disburse all monetary consequential service benefits to the petitioner.



WEB COPY



W.P.(MD)No.11191 of 2017

For Petitioner : Mr.G.Karthik
for M/s.T.Lajapathi Roy Associates
For Respondents 1 to 5 : Mr.S.Kameswaran
Government Advocate

ORDER

This Writ Petition has been filed challenging the impugned orders dated 08.02.2013, 20.12.2013, 06.12.2014 and 01.11.2016. The charges were framed against the petitioner in the disciplinary proceedings on the ground that without permission, he had raided a lodge and during the course of his raid he had seized Rs.4,23,000/- on 23.05.2012 and misappropriated the same.

2.Three charges were framed against the petitioner pertaining to the aforesaid raid and an enquiry officer was appointed by the respondents. The petitioner also participated in the enquiry proceedings and since the petitioner did not obtain prior permission before conducting the raid and did not account for the cash recovered during the course of his raid, the enquiry officer in his report has held that the petitioner did not seek prior permission prior to conducting the raid and therefore, the charge with regard to the same as framed in the disciplinary proceedings has been proved.



W.P.(MD)No.11191 of 2017

WEB COPY

3.Based on the enquiry report, the fourth respondent [disciplinary authority] passed the impugned order dated 08.02.2013, imposing the punishment namely 'postponing next increments for a period of three years with cumulative effect'. Aggrieved by the order of the fourth respondent dated 08.02.2013, the petitioner preferred an appeal before the third respondent. The third respondent in the appeal filed by the petitioner, modified the punishment into that of 'postponement of next increments for a period of three years without cumulative effect', through his order dated 20.12.2013.

4.Thereafter, a Review Petition was filed by the petitioner before the second respondent ie., the Director General of Police and in the Review Petition, the second respondent [Director General of Police] by his order dated 06.12.2014, modified the punishment into that of 'postponement of next increment for a period of one year without cumulative effect'. Again, aggrieved over the said order, the petitioner has preferred a Mercy Petition before the first respondent, who had rejected the said Mercy Petition vide impugned order dated 01.11.2016. Aggrieved by the passing of the impugned orders against the petitioner, this Writ Petition has been filed.



W.P.(MD)No.11191 of 2017

WEB COPY

5.Admittedly, the petitioner did not seek prior permission from his higher authorities before conducting the raid. The same is also proved, as seen from the enquiry report submitted by the Enquiry Officer. The case of the prosecution in the disciplinary proceedings is that the petitioner had not sought prior permission before conducting the raid in the subject lodge and did not account for a sum of Rs.4,23,000/- seized from the said lodge and the petitioner had misappropriated the same. The petitioner has participated in the enquiry proceedings and as seen from the Enquiry Report, principles of natural justice has been adhered to by the Enquiry Officer.

6.This Court while deciding this writ petition under Article 226 of the Constitution of India cannot re-appreciate the evidence, when the evidence available on record which was placed before the Enquiry Officer has made the Enquiry Officer to come to a conclusion that prior permission was not obtained by the petitioner prior to conducting of the raid in the subject lodge. The cash recovered by the petitioner during the course of the raid has also not been properly accounted, as seen from the enquiry report, though the Enquiry Officer has not given any finding with regard to the said charge framed in the disciplinary proceedings.



W.P.(MD)No.11191 of 2017

7.The fourth respondent [disciplinary authority] has passed an order dated 08.02.2013, imposing a punishment of 'postponement of next increments for a period of three years with cumulative effect' on the petitioner. The said order also has been modified in appeal by the third respondent vide his order dated 20.12.2013 and the punishment has been modified to 'postponement of next increments for a period of three years without cumulative effect'. A Review Petition was also filed by the petitioner before the second respondent seeking review of the order dated 20.12.2013 passed by the third respondent and the the second respondent [Director General of Police] vide his order dated 06.12.2014, modified the punishment into that of 'postponement of next increment for a period of one year without cumulative effect'. Finally, a Mercy Petition came to be filed by the petitioner before the first respondent, who had rejected the same vide his order dated 01.11.2016.

8.This Court, after giving due consideration to the nature of charges framed against the petitioner and in view of the admitted fact that the petitioner did not obtain prior permission for conducting raid in the subject lodge and the enquiry having been conducted by adhering to the principles of natural justice, cannot interfere with the impugned orders passed by the respondents through their orders dated 08.02.2013, 20.12.2013, 06.12.2014 and 01.11.2016, as this



W.P.(MD)No.11191 of 2017

Court cannot re-appreciate the evidence available on record and that too, when only based on the evidence, the impugned punishment has been imposed by the second and third respondents. Even in the Mercy Petition filed by the petitioner, the first respondent has confirmed the order of the second respondent through his order dated 01.11.2016.

9.For the foregoing reasons, there is no merit in this Writ Petition.

10.Learned Counsel for the petitioner had submitted before this Court that the petitioner was suspended from service from 30.05.2012 to 14.02.2013, during the pendency of the disciplinary proceedings and the respondents have treated the said period as EL which is improper.

11.Learned Counsel for the petitioner is permitted to give a representation to the respondents with regard to the alleged error committed by the respondents within a period of two [2] weeks from the date of receipt of a copy of this order. On receipt of the said representation, the second respondent is directed to consider the same on merits and in accordance with law within a period of eight [8] weeks thereafter.



W.P.(MD)No.11191 of 2017

WEB COPY

12.Accordingly, this Writ Petition stands dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

23.08.2024

Index :Yes / No
Internet : Yes / No
NCC : Yes/No
MR



W.P.(MD)No.11191 of 2017

To

- 1.The Secretary,
State of Tamil Nadu,
Department of Home Prohibition and Excise,
Fort St. George,
Chennai.
- 2.The Director General of Police,
O/o. the Director General of Police,
No.601, Radhakrishnan Salai,
Mylapore,
Chennai – 04.
- 3.The Additional Director General of Police,
O/o. The Additional Director General of Police,
No.601, Radhakrishnan Salai,
Mylapore,
Chennai – 04.
- 4.The Inspector General of Police,
O/o. the Inspector General of Police,
Q Branch CID,
No.601, Radhakrishnan Salai,
Mylapore,
Chennai – 04.
- 5.The Superintendent of Police,
O/o. The Superintendent of Police,
Nagercoil,
Kanyakumari District.



WEB COPY



W.P.(MD)No.11191 of 2017

ABDUL QUDDHOSE, J.

MR

W.P.(MD)No.11191 of 2017

23.08.2024