



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.07.2025

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THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.15935 of 2012

S.Pavun

... Petitioner

Vs.

1.The Deputy Superintendent of Police
Crime Record Bureau
St Thomas Mount, Chennai 16.

2.The Superintendent of Police
Madurai District, Madurai.

3.The Deputy Inspector General of Police,
Madurai Range, Madurai.

4.The Director General of Police
Dr Radhakrishnan Salai
Mylapore, Chennai 4.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of certiorari calling for the records of the respondent in connection with the impugned order passed by the 2nd respondent in F1/P.R No.54/99 dated 29.03.99, by the 3rd respondent in C No.A6/APP 29/99 dated 27.05.99 and by the 4th respondent in RC No.240606/AP3(2)/2010 dated 15.04.2012.



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For Petitioner : Mr.K.Venkataramani
Senior Counsel for Mr.M.Muthappan

For Respondents : Mr.Haja Nazirudheen
Additional Advocate General assisted by
K.H.Ravikumar

ORDER

This writ petition has been filed challenging the orders passed by the 2nd respondent in proceedings F1/P.R 54/99 dated 29.03.1999, as confirmed by the 3rd respondent in his order dated 27.05.1999, and further confirmed by the 4th respondent in proceedings RC.No.240606/AP 3(2)/2010 dated 15.04.2012, whereby the punishment of reduction in time scale of pay by one stage for one year without cumulative effect was confirmed against the petitioner herein.

2. Heard Mr.K.Venkataramani, learned Senior Counsel for the petitioner and Mr.Haja Nazirudheen, learned Additional Advocate General for the respondents.

3. The brief facts that are relevant for disposal of this writ petition are as under:

3.1. While the petitioner was working as Sub-Inspector of Police, Law and Order, Thiruvanmiyur Police Station, he was subjected to disciplinary



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proceedings by initiating the proceedings under Rule 3(b) of Tamil Nadu Police Subordinate Service (Discipline and Appeal) Rules, 1955 by issuing a charge memo bearing P.R.N.107/89 dated 28.04.1989, while placing the petitioner under suspension. The petitioner submitted his explanation denying the charges, and thereupon an enquiry officer was appointed to conduct oral enquiry on the charges levelled against the petitioner. In all, there were ten charges that are levelled against the petitioner. The enquiry officer, after having conducted detailed enquiry submitted his report on 30.06.1997, holding the charge Nos.1, 3, 6, 9 & 10 as proved and rest of the charges i.e., Charge Nos.2, 4, 5, 7 & 8 as not proved. Thereupon, the 2nd respondent herein, being the disciplinary authority, in terms of the Rule 9(A) of Tamil Nadu Civil Services (Discipline and Appeal) Rules, 1955, communicated the report of the enquiry officer to the petitioner. After receipt of further representation from the petitioner, the 2nd respondent herein, passed an order dated 29.03.1999, agreeing with the conclusions arrived at by the enquiry officer, imposed the punishment of reduction in the time scale of pay by two stages for one year with cumulative effect. Aggrieved thereby, the petitioner filed an appeal before the 3rd respondent, and the 3rd respondent, by order dated 27.05.1999, modified the punishment imposed by the 2nd respondent as reduction in the time scale of pay by one stage for one year



without cumulative effect.

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3.2. It was thereafter, the petitioner filed a review before the 4th respondent under Rule 15(A) of Tamil Nadu Police Subordinate Service (Discipline & Appeal) Rules, 1955 and the said review was rejected by an order dated 11.03.2008 in proceedings RC.No.36871/AP1(2)/2006. It is aggrieved by the said order, the petitioner filed W.P.No.24221 of 2010 before this Court and the said writ petition was disposed of by this Court, by an order dated 04.01.2012, remanding the matter back to the 4th respondent to reconsider the same, in the light of the Rule 15(A) of Tamil Nadu Police Subordinate Service (Discipline & Appeal) Rules, 1955. It was thereafter, the petitioner submitted an additional representation dated 19.02.2012, in addition to the review/mercy petition that was filed on 24.12.2007 before the 4th respondent. It was thereafter, the 4th respondent, having considered the mercy petition dated 24.12.2007 together with additional representation dated 19.02.2012, passed orders in his proceedings RC.No.240606/AP 3(2)/2010 dated 15.04.2012 rejecting the review/mercy petition filed by the petitioner. It is aggrieved by the said order dated 29.03.1999, as modified by the 3rd respondent by an order dated 27.05.1999, and the further orders passed by the 4th respondent dated 15.04.2012, the petitioner approached this Court by filing the present writ petition.



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4. Mr.Venkataramani, learned Senior Counsel appearing for the petitioner contended that the impugned proceedings are liable to be quashed on the ground of inordinate delay in conclusion of the disciplinary proceedings which continued for about 10 years causing great prejudice to the petitioner. He further submitted that the petitioner is no way responsible for the delay in conclusion of the disciplinary proceedings, and it is only the respondents who are responsible for the entire delay. He also further submitted that out of ten charges levelled against the petitioner, five charges were held to have been not proved and it is only five charges that were held to have been proved against the petitioner, which are not of a serious nature. He also further contended that basing upon the very same incident various several other officers were also subjected to disciplinary proceedings and in such case, Rule 9(A) of the Tamil Nadu Civil Services (Discipline & Appeal) Rules, 1955 (hereinafter referred to as 'Rules, 1955') would apply, and in terms of the Rule 9(A) of the said Rules, the disciplinary authority of the highest ranking officer is the only competent authority to initiate and conclude the disciplinary proceedings. But in the instant case, such procedure has not been adopted. He also further contended that due to prolonged continuation of the disciplinary proceedings from the year 1989 to 1999, the petitioner was



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deprived of consideration of his case for promotion to the post of Inspector of Police, for which he became fully eligible and fall within the zone of consideration during the year 1993. In support of his contentions, he also relied upon the decisions of the Hon'ble Apex Court in the cases of *M.V.Bijlani Vs. Union of India and Others* reported in (2006) 5 SCC 88, *P.V.Mahadevan Vs. MD, T.N. Housing Board* reported in (2005) 6 SCC 636 and *State of Andhra Pradesh Vs. N.Radhkishan* reported in (1998) 4 SCC 154.

5. On the other hand, Mr.Haja Nazirudheen, learned Additional Advocate General appearing for the respondents strenuously contended that there is no procedure of lapse in the matter of conducting and concluding the disciplinary proceedings that were initiated against the petitioner, and it is only the petitioner who is responsible for the delay in conclusion of the disciplinary proceedings and at several stage, the petitioner has avoided participating in the enquiry, thereby preventing the respondents from concluding the enquiry proceedings. He further contended that, along with the petitioner certain other officers were also subjected to disciplinary proceedings and in view of the stay orders obtained by other delinquent officers, the enquiry could not be concluded against the petitioner herein within a reasonable time. He also further contended that in the instant case,



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the disciplinary authority to impose a penalty on the petitioner is the 1st respondent, who originally initiated the disciplinary proceedings by issuing a charge memo. But in view of the operation of Rule 9(A) of the Rules, 1955, the 2nd respondent herein exercised the power and passed the order dated 29.03.1999, and thereby there is no violation of Rule 9A of the Rules, 1955. He also further submitted that the petitioner was also subjected to certain other disciplinary proceedings during the year 1989-1999 and therefore, the question of considering or denying his case for promotion does not arise. Further, he also brought to the notice of this Court that the petitioner herein was subsequently promoted to the post of Inspector of Police and finally, he retired from service on 31.05.2014 on attaining the age of superannuation and all his terminal benefits were also settled.

6. This Court has carefully considered the submissions made on either side and also perused the entire material on record.

7. This Court, after having perused the entire material on record, does not find any procedural lapse on the part of the respondents in conducting and concluding the disciplinary proceedings, nor any such procedural lapse has been pointed out before this Court. Further, there is no



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attempt made by learned Senior Counsel appearing for the petitioner to show that the charges are not proved or to say that the charges were held to have been proved without there being sufficient evidence. But the main contention of the learned counsel for the petitioner is on the ground of delay in conclusion of the disciplinary proceedings. Therefore, this Court is not inclined to go into the aspect of correctness of the punishment imposed on the petitioner.

8. Yet another reason this Court is not inclined to interfere with the punishment imposed on the petitioner, as modified by the 3rd respondent, is that the said punishment, which came to be finally imposed against the petitioner by virtue of orders passed by the 3rd respondent on 27.05.1999, was allowed to become final and the petitioner kept quiet for a long period of eight years and it was only thereafter, the petitioner filed mercy petition before the 4th respondent only on 24.12.2007. As the petitioner acceded and accepted the punishment for more than 8 years and then filed a mercy petition, this Court is of the considered view that the said punishment cannot be interfered with on the ground of delay and laches on the part of the petitioner.

9. However, this Court is inclined to examine the aspect of



prejudice if any caused to the petitioner because of the prolonged disciplinary proceedings.

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10. The Hon'ble Apex Court has an occasion to consider the matters where delay in the conclusion of disciplinary proceedings causes severe prejudice, in the case of ***State of Andhra Pradesh Vs. N.Radhkishan***, reported in ***(1998) 4 SCC 154***, wherein the Hon'ble Apex Court held as under:

“19. It is not possible to lay down any predetermined principles applicable to all cases and in all situations where there is delay in concluding the disciplinary proceedings. Whether on that ground the disciplinary proceedings are to be terminated each case has to be examined on the facts and circumstances in that case. The essence of the matter is that the court has to take into consideration all the relevant factors and to balance and weigh them to determine if it is in the interest of clean and honest administration that the disciplinary proceedings should be allowed to terminate after delay particularly when the delay is abnormal and there is no explanation for the delay. The delinquent employee has a right that disciplinary proceedings against him are concluded expeditiously and he is not made to undergo mental agony and also monetary loss when these are unnecessarily prolonged without any fault on his part in delaying the proceedings. In considering whether the delay has vitiated the disciplinary proceedings the court has to consider the nature of charge, its complexity and on what account the delay has occurred. If the delay is unexplained prejudice to the delinquent employee is writ large on the face of it. It could also be seen as to how much the disciplinary authority is serious in pursuing the charges against its employee. It is the basic principle of administrative justice



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that an officer entrusted with a particular job has to perform his duties honestly, efficiently and in accordance with the rules. If he deviates from this path he is to suffer a penalty prescribed. Normally, disciplinary proceedings should be allowed to take their course as per relevant rules but then delay defeats justice. Delay causes prejudice to the charged officer unless it can be shown that he is to blame for the delay or when there is proper explanation for the delay in conducting the disciplinary proceedings. Ultimately, the court is to balance these two diverse considerations.”

The said decision of the Hon'ble Apex Court was followed subsequently in the case of *P.V.Mahadevan Vs. MD, T.N. Housing Board* reported in (2005) 6 SCC 636 and *M.V.Bijlani Vs. Union of India and Others* reported in (2006) 5 SCC 88.

11. The law in this regard is now well settled. The delinquent employee has a right that the disciplinary proceedings against him are concluded as expeditiously as possible, so that he is not made to undergo mental agony, monetary loss and the other service benefits such as promotion etc, on the ground of the pendency of the disciplinary proceedings. In order to assess whether prejudice is caused to the petitioner or not, the same has to be examined in the facts and circumstance of each case. In the instant case, even though ten charges were levelled against the petitioner, five charges have been held to be not proved, and only five charges were held to have been



proved. The disciplinary proceedings in question were initiated as early as in the year 1989, but the enquiry officer submitted his report only in the year 1997 i.e., on 30.06.1997. Either in the report of the enquiry officer or in the order dated 29.03.1999 passed by the 2nd respondent herein, there is nothing stated to suggest that the delay in conclusion of the disciplinary proceedings is because of the action or inaction on the part of the petitioner. As against the punishment of reduction in the time scale of pay by two stages for a period of one year with cumulative effect that was imposed by the 2nd respondent, the same was reduced by the 3rd respondent in an appeal filed by the petitioner restricting the same to reduction of one stage without cumulative effect. Thus, the ultimate punishment stood imposed against the petitioner is only a minor penalty of reduction in time scale of pay by one stage without cumulative effect for a period of one year.

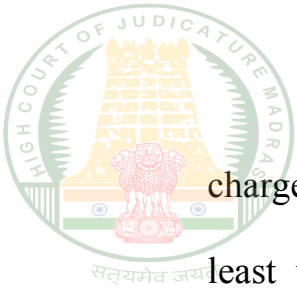
12. From the nature of punishment that was finally imposed on the petitioner, it can be understood that the five charges that were held to have been proved against the petitioner are not of grave in nature. In respect of the charges that are held to have been not proved, the petitioner cannot be held responsible. If the proved misconduct in respect of five charges levelled and proved against the petitioner is to be construed as minor charges resulting in



imposition of minor penalty, the necessary question that would fall for consideration is whether the respondents would have taken such a long period of about a decade for conclusion of such disciplinary proceedings, and whether there is any great prejudice caused to the petitioner because of prolonged continuation of the disciplinary proceedings.

13. It is the specific case of the petitioner that he became eligible for consideration for promotion in the year 1993 itself, but the same was deferred because of the pendency of the disciplinary proceedings in question, and finally, his case was considered for inclusion in the C-list of Sub Inspector of Police eligible for the post of Inspector of Police, and ultimately he was promoted to the post of Inspector of Police only on 04.02.2002. But for the prolonged disciplinary proceedings, the petitioner's case would have been considered for promotion to the post of Inspector of Police either in the year 1993 or immediately thereafter. According to learned Senior Counsel appearing for the petitioner, the immediate junior of the petitioner by name Mr.Muthuraj was promoted to the post of Inspector of Police on 06.08.1993 itself. But the petitioner is deprived of the same.

14. Had the disciplinary proceedings that were initiated by issuing



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charge memo dated 28.04.1989 been concluded immediately thereafter, or at least within a period of three years, the punishment ultimately that was imposed on the petitioner would have ended by the year 1993. Though the respondents tried to explain the delay by attributing the same to the petitioner in the counter affidavit, there are no specific allegations that are levelled against the petitioner to make him responsible for the delay in conclusion of the disciplinary proceedings. No such incident has been narrated either in the entire counter affidavit or in the orders passed by the 4th respondent dated 15.04.2012, except making bald allegations stating that the petitioner himself is responsible for the delay in conclusion of the disciplinary proceedings.

15. On the other hand, it is the case of the respondents that the disciplinary proceedings could not be concluded, as the other delinquent employees who were also charge sheeted along with the petitioner have approached the Court and obtained stay of the proceedings. Admittedly, there is no stay obtained by the petitioner staying the disciplinary proceedings that were initiated against him by issuing a charge memo dated 28.04.1989. Therefore, this Court is not inclined to agree with the contentions of the learned Additional Advocate General on the ground that the petitioner himself is responsible for the conclusion of the disciplinary proceedings. As a matter

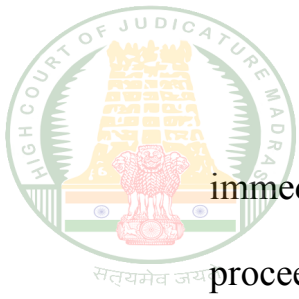


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of fact, any disciplinary proceedings that were initiated is required to be concluded within a period of six months, and there are several executive instructions and orders were also issued to conclude the disciplinary proceedings at the earliest. It is only because of the prolonged continuation of the disciplinary proceedings, the petitioner was deprived of consideration of his case for promotion on par with his junior.

16. In the light of the above, this Court is unhesitant to come to the conclusion that the delay in conclusion of the disciplinary proceedings prejudicially affected the interest of the petitioner in the matter of consideration of his case for promotion. Though this Court is not inclined to interfere with the conclusions arrived at by the disciplinary authority on the five charges and the punishment that was imposed on the petitioner as modified by the 3rd respondent, this Court is of the considered view that this is a fit case where the prejudice that was caused to the petitioner because of the prolonged continuation of the disciplinary proceedings is required to be remedied in the interest of justice.

17. Accordingly, this writ petition is disposed of directing the 4th respondent to consider the case of the petitioner for promotion on par with his



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immediate junior without reference to the pendency of the disciplinary proceedings and the punishment that was imposed on the petitioner through impugned proceedings, subject to his eligibility otherwise in accordance with law and pass appropriate orders thereon, as expeditiously as possible, at any rate within a period of three (3) months from the date of receipt of a copy of this order, and to extend all consequential benefits.

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dpa

Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No

To

- 1.The Deputy Superintendent of Police
Crime Record Bureau
St Thomas Mount, Chennai 16.
- 2.The Superintendent of Police
Madurai District, Madurai.
- 3.The Deputy Inspector General of Police,
Madurai Range, Madurai.
- 4.The Director General of Police



Dr Radhakrishnan Salai
Mylapore, Chennai 4.

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MUMMINENI SUDHEER KUMAR, J.

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