



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.01.2025

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THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.15619 of 2015

and

M.P.No.1 of 2015

K.Ramachandran

... Petitioner

Vs.

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

2. The Principal Secretary to Government,
Home (Police II) Department,
Fort St George, Chennai – 9.

... 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 first respondent in connection with the impugned order passed by him in RC.No.81557/Con II(2)/2013 dated 24.12.2013 and confirmed by the second respondent in GO (D) No.34, Home (Pol.2) Department, dated 19.01.2015 and quash the same.

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

For Respondents : Mr.P.Ganesan,
Additional Government Pleader



ORDER

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This writ petition has been filed challenging the proceedings bearing RC.No.81557/Con II(2)/2013 dated 24.12.2013 issued by the Respondent No.1, imposing the punishment of censure on the petitioner as well as the orders issued by the Respondent No.2 vide GO (D) No.34, Home (Pol.2) Department, dated 19.01.2015, confirming the punishment of censure imposed against the petitioner.

2. The petitioner while working as 'Assistant Commissioner of Police' in the Royapettah Range, Greater Chennai, he was subjected to disciplinary proceedings under Rule 17(a) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, 1955, by framing two charges.

3. The said two charges are as under:-

Charge-1:- “*Highly reprehensible conduct in having failed to pay rent for your stay from 02.07.2008 to 31.03.2009 at Hotel Sakunthala International, Vannarapettai, Tirunelveli and thus bought disrespect to the Police force.*”

Charge-2:- “*Highly reprehensible conduct in having failed to pay the bills for the food you had taken from Hotel Aryas Residency and Hotel Ramprasad, Vannarapettai, Tirunelveli during your tenure as*



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Assistant Commissioner of Police, City Crime Record Bureau and Assistant Commissioner of Police, Law and Order, Palaymkottai Sub-Division from 02.07.2008 onwards and thus marred the image of the police.”

4. The petitioner submitted his explanation denying the charges on 13.10.2013 and also expressing that he is not in a position to produce the receipts for the payments made in favour of Sakunthala International, Vannarapettai and Hotel Arya Residency because of the lapse of five years of time. However, the Respondent No.1, having considered the explanation submitted by the petitioner, passed orders dated 24.12.2013, imposing the punishment of censure on the petitioner.

5. The operative portion of the said order dated 24.12.2013 reads as under:-

“ 7. I see from the report of the ADC, PWE that he has held four allegations not proved including the allegation of buying clothes from Pothys without making payment. There is no reason for the ADC to record any false statement. Further, even the partner of Hotel Sakunthala International has mentioned payment of rent only for this first month. No receipt for any such payment has been produced.”

6. As seen from the show-cause notice containing two charges, the basis for such charges were stated to be the following documents:-



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“(i) Statement of Tr.N.Badri Narayanan, Manager, Hotel Sakunthala International, Vannarapettai, Tirunelveli dated 27.04.2011 and 15.01.2013.

(ii) Statement of Tr.Selvam @ Tamil Selvam, Manager, Hotel Aryas Residency, Tirunelveli dated 27.04.2011 and 07.01.2013.

(iii) Preliminary Enquiry report dt. 06.05.2011 of the Addl.Deputy Commissioner of Police, Prohibition Enforcement Wing, Tirunelveli City.

(iv) Report in C.No.41/Camp/IGP- COP/Tin. City/2011, dated : 20.02.2013 of the Commissioner of Police, Tirunelveli City.”

7. From the operative portion of the order dated 24.12.2013, it is evident that the Additional Deputy Commissioner of Police, Prohibition Enforcement Team, Tirunelveli, conducted the preliminary enquiry and held that the allegations against the petitioner as not proved. However, the Respondent No.1, without taking note of the said conclusion arrived at by the Preliminary Enquiry Officer, proceeded to impose the punishment without even recording his disagreement with the findings of the preliminary report of the Enquiry Officer.

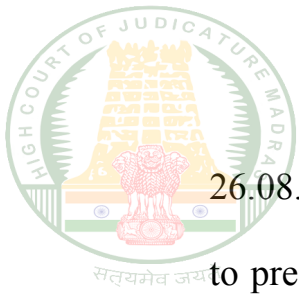
8. Further, the basis for framing the charges against the petitioner are the statements of two persons, but the petitioner was not afforded any



opportunity to cross-examine those persons. Once the Preliminary Enquiry Officer concluded that the allegation against the petitioner as not proved, there is no justification for the Respondent No.1 to proceed to hold the charges as proved against the petitioner, especially without recording any disagreement with the findings of the preliminary Enquiry Officer.

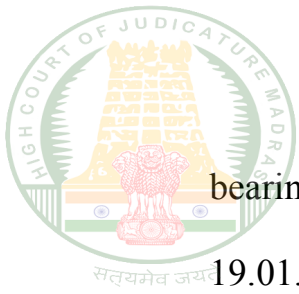
9. As seen from the show-cause notice dated 26.08.2013, whereby the petitioner was asked to explain on the charges, there was no such disagreement recorded by the Respondent No.1, except placing reliance on the four documents referred to above which includes the report of the preliminary Enquiry Officer. Further, the Respondent No.1 proceeded to observe in Paragraph No.7 of the impugned order dated 24.12.2013, that the petitioner has not produced any receipt for payments made in favour of the Hotesl. In the absence of conducting any detailed enquiry, the question of production of any receipts for such payments does not arise.

10. Further, as seen from the charges, the allegations pertains to the periods 02.07.2008 to 31.03.2009, during which period the petitioner is alleged to have stayed in the Hotel Shakunthala International, Vannarapettai. The show-cause notice in respect of the said charge was initiated only on



26.08.2013 i.e., after a lapse of five years. No reasonable person is expected to preserve the receipts of payments made during the year 2008-2009 till the year 2013, anticipating an enquiry into the said aspect. Thus, the delay in initiation of proceedings under Rule 17(a) of the Rules, 1955, has caused great prejudice to the petitioner. The Respondent No.1, without taking into consideration all these aspects and also discarding the findings recorded by the preliminary Enquiry Officer holding that the allegations against the petitioner as not proved, proceeded to impose the punishment of censure. As seen from the explanation submitted by the petitioner, the said proceedings were initiated only to deprive him of his eligible promotion, which was due during the year 2013.

11. From the overall facts and circumstances of the case, it appears that the proceedings that were initiated under Rule 17(a) of the Rules, 1955, against the petitioner are not for bonafide reasons. For all the above reasons, especially the delay in initiation of proceedings under Rule 17(a) of the Rules, 1955, the entire punishment that was imposed against the petitioner by the Respondent No.1, as confirmed by the Respondent No.2 through order dated 19.01.2015 are liable to be quashed and accordingly, the impugned orders



bearing RC.No.81557/Con II(2)/2013 dated 24.12.2013 and the order dated 19.01.2015 of the Respondent No.2 are hereby quashed.

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12. Accordingly, the writ petition is allowed. No costs. Connected miscellaneous petitions, if any, shall stand closed.

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Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No

To

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2. The Principal Secretary to Government,
Home (Police II) Department,
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