



W.A.No.2887 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Dated : 14.03.2025

CORAM:

**THE HONOURABLE MR JUSTICE S. S. SUNDAR
AND
THE HONOURABLE MR JUSTICE C. SARAVANAN**

WA No. 2887 of 2021

T.Santhakumar
S/o.Thanga Nadar, No.3/4, Sapthagiri Nagar,
Balaji Nagar Extension, Puzhuthivakkam,
Chennai-600091

..Appellant

Vs

1.THE PRINCIPAL SECRETARY (HOME)
GOVERNMENT OF TAMILNADU, FORT ST.
GEORGE, CHENNAI-600009

2 .THE DIRECTOR GENERAL OF POLICE
TAMILNADU POLICE HEAD QUARTERS,
MYLAPORE, CHENNAI-600004

3. THE COMMISSIONER OF POLICE
GREATER CHENNAI POLICE, VEPERY,
CHENNAI-600007

4. THE DEPUTY COMMISSIONER OF POLICE
AMBATTUR DISTRICT, CHENNAI-600053.

..Respondents



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Prayer :- Writ Appeal filed under Clause 15 of the Letters Patent as against the order dated 11.11.2020 passed in W.P.No.18805 of 2014.

For Appellant : Mr.R.Prem Narayan

For Respondent: Mr.G.Nanmaran

JUDGMENT

(Order of the Court was made by the Hon'ble S.S.Sundar J.)

This appeal is directed against the order passed by the learned Single Judge dated 11.11.2020 dismissing the writ petition filed by the appellant challenging the charge memo and the order of punishment imposed on the appellant by the 4th respondent which was subsequently modified by third respondent and later confirmed by other respondents.

2. Brief facts that are necessary for the disposal of this appeal are as follows:-

The appellant was working as Grade II Police Constable after joining the services of the respondent in the year 1981. While the appellant was working as Head Constable in the office of Social Justice and Human Rights,



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St.Thomas Mount Unit, a charge memo was issued based on a complaint lodged by one individual by name Thiru.Bakiyam.

3. The complainant filed a complaint before the Inspector, Social Justice and Human Rights-Urban Rural, St.Thomas Mount, Chennai-76, against his superior officer. As per the Complaint, the complainant was present on 05.10.2008 in the office of Social Justice and Human Rights in response to an enquiry notice from the Inspector. It is stated in the complaint that after enquiry by the Inspector, the appellant contacted him and demanded a sum of Rs.2000/- for registering a case against one Kalyanasundaram against whom the complainant had filed a complaint by influencing the Inspector. It is further stated that he also paid the said amount to the appellant.

4. Even though the complaint is undated, in the evidence in the cross examination, it is stated by the complainant that he lodged the said complaint on 30.01.2009 three months after the incident i.e., 05.10.2008. On the said complaint, a preliminary enquiry was conducted by the Inspector by name



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Thiru G.Sundaramurthy. However, it is admitted that the said

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5. Similarly another complainant by name Tmt.Jeniffer Sagar aged 64 years, stated in her complaint that a sum of Rs.500/- was demanded by the appellant on 25.10.2008 for registering a case against her son-in-law on the basis of the complaint lodged by her before the Inspector, Social Justice and Human Rights (PCR), St.Thomas Mount.

6. A preliminary enquiry was conducted by the Inspector by name Thiru.G.Sundaramurthy. As per the report pursuant to the preliminary enquiry, the Inspector viz., G.Sundaramurthy has recorded that on 05.10.2008, the complainant Thiru.Bakkiam appeared before him for an enquiry in connection with the complaint by Bakkiam against her superior officer viz., Kalyanasundaram stating that the said Officer had scolded him by referring to his caste name. The said Officer has further stated that the complainant by name Bakkiam was called upon again and he made enquiry

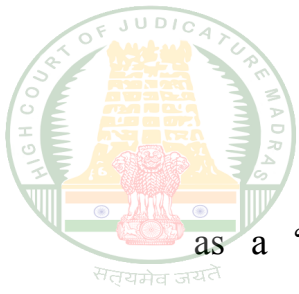


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on 30.01.2009 and the complainant has given a statement before him to the effect that the appellant had demanded and accepted a sum of Rs.2000/- from Bakkiam for registering the complaint by influencing the Inspector.

7. Based on the preliminary report dated 02.02.2009, a charge memo was issued to the appellant on 03.02.2009. From the charge memo, it is seen that the preliminary enquiry report of the Officer dated 02.02.2009 is also annexed, which indicate that the preliminary report was laid upon before the authority. It is not disputed that the charges were specifically denied by the appellant. Thereafter, an Enquiry Officer was appointed and the Enquiry Officer submitted a report. Based on the enquiry report, a second show cause notice was also issued to the appellant. Thereafter, the appellant was issued with an order of removal from service.

8. Thereafter, the appellant preferred an appeal before the 3rd respondent and the 3rd respondent also rejected the appeal by order dated 23.11.2009. Aggrieved by the orders of the 3rd respondent, the appellant preferred a Review before the 2nd respondent who modified the punishment

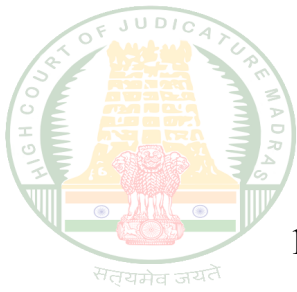


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as a “Three stage reduction in pay for three years to affect future emoluments” and reinstated in service. Against which, the petitioner also preferred further appeal before the 1st respondent who has confirmed the order of the 2nd respondent by order dated 16.07.2013.

9. Challenging the proceedings of the respondents 1 to 4, which is culminated in reduction in pay of the appellant by three stages for three years with cumulative effect to affect future emoluments, the petitioner preferred a Writ Petition in W.P.No.18805 of 2014.

10. The said writ petition was dismissed by the learned Single Judge of this Court by impugned order dated 11.11.2020. The learned Single Judge, considered the allegations levelled against the petitioner in charge memo and punishment. It is seen that based on the findings of the Enquiry Officer, the learned Single Judge held that punishment is commensurate with the charges levelled in the charge memo. As against the order of the learned Single Judge, the appellant preferred the present writ appeal.



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11. The learned counsel for the appellant submits that there are serious infirmities in the course of enquiry and the decision imposing punishment and that the same have not been considered by the learned Single Judge.

12. The learned counsel appearing for the appellant pointed out a serious discrepancy in the statement of the Officer who prepared the preliminary enquiry report dated 02.02.2009 and the statement of the complainant in the complaint.

13. It is seen from the complaint that the complainant had stated in unequivocal terms that he was called upon by the Inspector of Police who enquired him on 05.10.2008 and the complaint was against his superior officer by name Kalyanasundaram. The Enquiry Officer by name Thiru G.Sundaramurthy, who has conducted preliminary enquiry and submitted his report on 02.02.2009 has recorded a statement that the complainant by name Bakkiam met him on 05.10.2008 in the office of Social Justice and Human Rights and gave his statement in the enquiry. It is further stated in the report that after the enquiry on 05.10.2008, the appellant had seen the complainant



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by name Bakkiam and demanded a sum of Rs.2000/- as bribe under the pretext that he would persuade the Inspector to register the complainant's complaint against his superior officer. In the said report, he has also pointed out about a similar complaint by yet another person by name Tmt.Jeniffer Sagar.

14. It is not in dispute that Tmt.Jeniffer Sagar has given another complaint against the appellant who did not attend the enquiry to prove her version before the Disciplinary Authority.

15. The report was filed by Mr.G.Sundaramurthy, who was the Inspector of the Social Justice and Human Rights Unit. Based on the enquiry report and the complaint, the charge memo was issued to the appellant. It is admitted by the Officer who gave the preliminary report dated 02.02.2009 that he assumed charge in the St.Thomas Mount Office on the date of enquiry only i.e., on 10.10.2008. In the information received under R.T.I., given by the appropriate Public Officer reveals that Mr.G.Sundaramurthy, Inspector, who authored the report dated 02.02.2009 was not there in the Office at all



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on 05.10.2008 and joined the office only on 10.10.2008. During the cross examination of the officer, he admitted that he joined the Social Justice and Human Rights at St.Thomas Mount only on 10.10.2008. Therefore, a false report has been drafted by the Inspector on 02.02.2009. Though a charge memo was on the basis of the complaint lodged by an individual and the report of the Inspector, the statement of the witness during the cross examination before Enquiry Officer clearly reveal that the statement given by the complainant is false and based on the same, the Inspector who conducted a preliminary enquiry has given a false report. Even though the complainant by name Bakkiam altered his statement that the enquiry was conducted by a Sub-Inspector, this court is of the view that the subsequent version cannot be accepted since his earlier version was the basis of a false report which culminated in charge memo.

16. It is relevant to point out that in his statement as witness before Enquiry Officer, the complainant was unable to remember what is the day on 05.10.2008. It is brought to the notice of this court that 05.10.2008 is a Sunday. Secondly the complainant lodged a complaint only on 30.01.2009.



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The complainant admitted that the complaint was written by the persons who had accompanied her on 30.01.2009. He has also contradicted by saying that he went to the Office of the Inspector on 05.10.2008 on his own. He also admitted that he did not disclose the incident which occurred on 05.10.2008 to any one one until he gave complaint on 30.01.2009.

17. From the facts admitted by the Inspector, who drafted the preliminary report and the statement of the complainant during the enquiry, this Court is convinced that the whole charges against the appellant is based on such false inconsistent statements recorded in the enquiry report and such false narratives of the complainant is a serious factor which would wholly vitiates the disciplinary proceedings against the appellant herein.

18. Though it is stated that the charges against the appellant is said to have been proved based on the preponderance of probability, this court finds that there is no probability of the incident on 05.10.2008 (Sunday) having regard to the false statements by the crucial witnesses. The 2nd respondent while reducing the punishment has observed that there are variations and



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discrepancies in the statement of witnesses. However, this court finds that

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variations and discrepancies are not just mere discrepancies. Such false statements given by complainant were corroborated by giving a false report by the Inspector. Therefore, the order of punishment cannot be sustained. As a result, this appeal is allowed and the order of the learned Single Judge is set aside. The orders impugned in the writ petition are set aside. The Writ Appeal states allowed as prayed for. The monetary benefits that are incidental by allowing the writ petition shall be disbursed to the appellant within a period of three months from the date of receipt of a copy of this order.

(S.S.SUNDAR, J.) (C.SARAVANA, J.)

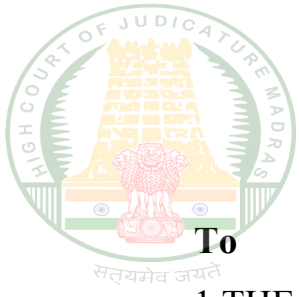
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