



W.P.No.33309 of 2014

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.12.2025

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THE HONOURABLE MR.JUSTICE **HEMANT CHANDANGOUDAR**

W.P.No.33309 of 2014
and
W.M.P.No.31278 of 2016

S.Elumalai
H.C.885/VL

... Petitioner

vs.

1. The Director General of Police
Department of Police
Mylapore, Chennai-4.
2. The Deputy Inspector of General of Police
Villupuram Range
Villupuram.
3. The Superintendent of Police
Villupuram District
Villupuram.
4. The Inspector of Police
Nallanpillaipetral Police Station
Gingee Taluk
Villupuram District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order D.O.No.130/2014 C.No.D1/PR.103/2012 dated 21.01.2014 of the third respondent herein, quash the same and consequently, direct the 2nd respondent to promote the petitioner as Sub-Inspector of Police.



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For Petitioner : Mr.K.M.Murugesan

For Respondents : Dr.S.Suriya

Additional Government Pleader

ORDER

The challenge in this writ petition is to the order dated 21.01.2014 bearing reference D.O.No.130/2014 C.No.D1/PR.103/2012 passed by the third respondent. By the said order, the petitioner, while working as a Head Constable, was awarded the punishment of postponement of increment for one year without cumulative effect.

2. The petitioner, while working as a Head Constable, was issued a charge memo containing three charges, which read as follows;

“(1) As a member of the police force, consuming alcohol and behaving in a manner unworthy of the dignity of the department is an offence that undermines the discipline expected of respected personnel and damages the reputation of the police in the eyes of the general public. Such misconduct in public places brings disrepute to the police department;

(2) Being a Head Constable who is aware of legal provisions, on 26.06.2011, along with your friend Bhaskaran, S/o.Kalvarayan, from Sirukadambur and with a gange of 10 people, you allegedly blocked Parthiban (2), S/o. Balu of Naduthittu, Kadambur Colony, Senji and Saravanan, S/o.Subramani, near Sri Mariamman Temple on Singavaram Road at around 6.00 p.m., attacked them with deadly



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weapons such as iron pipes and cycle chains, saying “How dare you speak against the Mayilam Police?” and even broke a soda bottle and attempted to stab them while also instigating your associates to attack. Your unlawful actions have caused serious damage to the public image of the Police Department. This amounts to grave and condemnable misconduct.

(3) While intoxicated, you engaged in quarrels and assaults the public, provoking violence. Due to these actions, criminal case No.336/11 under Sections 294, 323, 506(ii) IPC, and also under Sections 147, 148 IPC, has been registered at the Senji Police Station. Such behaviour is a serious offence amounting to indiscipline and unbecoming of a police officer.”

3. The explanation submitted by the petitioner was found to be unsatisfactory and, therefore, a departmental enquiry was initiated. After conducting the enquiry, the Enquiry Officer submitted a report holding that Charges 1 and 3 were not proved; however, Charge 2 was held to be partly proved. A second show-cause notice was issued to the petitioner, to which he submitted a detailed reply stating that, with respect to Charge 2, the complainant had withdrawn the complaint and that there was no evidence to substantiate the allegation of assault. Despite this, the third respondent proceeded to pass the impugned order. Aggrieved by the same, the present writ petition has been filed.

4. Mr. K. M. Murugesan, learned counsel for the petitioner, submitted that since the complainant had withdrawn the complaint, there was no evidence



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to establish that the petitioner had assaulted the complainant in the TASMACH premises. In the absence of any cogent evidence, the finding of the Enquiry Officer that Charge 2 was partly proved is unsustainable. He further submitted that the third respondent, who is the Disciplinary Authority, failed to consider the petitioner's detailed representation disputing the findings of the Enquiry Officer. The impugned order passed by the third respondent is not a speaking order, as it contains no reasons either for accepting the findings of the Enquiry Officer or for imposing the punishment.

5. In response, Dr. S. Suriya, learned State Counsel for the respondents, submitted that the complainant had originally lodged a complaint alleging that the petitioner had assaulted him while on duty, and it was on the basis of this complaint that the Enquiry Officer recorded a finding that Charge 2 was partly proved. It was further submitted that the said finding was based on the materials available on record, and in the absence of any perversity or arbitrariness, the same does not warrant interference. Accordingly, dismissal of the writ petition was sought for.

6. The submissions of the learned counsel for the parties and the materials placed on record have been duly considered.



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7. Insofar as Charges 1 and 3 are concerned, there was no evidence to substantiate the alleged misconduct. With regard to Charge 2, though an original complaint had been lodged, the complainant appeared before the Enquiry Officer and withdrew the complaint. Despite such withdrawal, the Enquiry Officer proceeded to record a finding that Charge 2 was partly proved solely on the basis of the original complaint, without considering the withdrawal or the absence of corroborative evidence.

8. Pursuant to the second show-cause notice, the petitioner submitted a detailed representation dated 27.08.2014 challenging the findings of the Enquiry Officer. However, the third respondent, who is the Disciplinary Authority, without considering either the Enquiry Report in its proper perspective or the explanation submitted by the petitioner, passed the following non-speaking order:

"HC.885 Elumalai formerly of Kiliyanur P.S. and now serving in Nallanpillaipetral P.S. of Villupuram District is awarded the punishment of "Postponement of increment for one year without cumulative effect" in PR.103/12 u/r 3(b) of TNPSS (D&A) Rules 1955 of Villupuram District."



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9. It is a settled principle of law that punishment in a departmental enquiry can be sustained only when the foundational requirements of a valid charge memo, adherence to principles of natural justice, proof of charges by legally acceptable evidence, independent application of mind by the disciplinary authority are strictly complied with. Any infraction of these essential elements vitiates the entire disciplinary proceedings and renders the order of punishment liable to be quashed. Therefore, the impugned order of punishment does not satisfy the essential requirements of law, namely, the existence of legally acceptable evidence to prove the charge and due application of mind by the Disciplinary Authority. Hence, it is not legally sustainable.

10. The petitioner attained the age of superannuation on 30.06.2016. At this stage, therefore, remanding the matter to the third respondent for reconsideration does not arise. Since the complainant had withdrawn the complaint before the Enquiry Officer and absence of corroborative evidence, the finding that Charge No. 2 was partly proved is unsustainable. Consequently, the impugned order passed by the third respondent also cannot be sustained.

11. Accordingly, the writ petition is allowed. The impugned order dated 21.01.2014 bearing reference D.O.No.130/2014 C.No.D1/PR.103/2012 is



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hereby set aside. The respondents are directed to revise the petitioner's retirement benefits and disburse the same along with arrears within a period of three months from the date of receipt of a copy of this order. Consequently, the connected miscellaneous petition is closed. There shall be no order as to costs.

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Index : Yes / No

Neutral Citation : Yes / No

Speaking / Non-speaking

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To

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HEMANT CHANDANGOUDAR, J.,

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