



W.P.No.6099 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.03.2025

CORAM:

THE HON'BLE MRS.JUSTICE.N.MALA

W.P.No.6099 of 2021

L.Prashad

... Petitioner

Vs.

1.The Commissioner of Police,
Office of the Commissioner of Police,
Greater Chennai Police,
Vepery, Chennai – 600 007.

2.The Deputy Commissioner of Police,
Armed Reserve,
Greater Chennai Police,
Vepery, Chennai – 600 007.

3.The Administrative Officer (Genl),
Greater Chennai Police,
Vepery,
Chennai – 600 007.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the impugned order “Removal from Service with immediate effect” dated 09.11.2019 having PR.No.48/PR IV(1)/2019 and having CPO No.3056/2019 of the 1st respondent herein and quash the same.



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For Petitioner : Mr.D.Yogeswaran
For Respondents : Mr.L.S.M.Hasan Fazil,
Additional Government Pleader

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ORDER

This Writ Petition is filed to call for the records of the impugned order “Removal from Service with immediate effect” dated 09.11.2019 having PR.No.48/PR IV(1)/2019 and having CPO No.3056/2019 of the 1st respondent herein and quash the same.

2.The petitioner was appointed in the Tamil Nadu Special Police Force as Constable on 17.01.2011. While in service, the petitioner was affected and admitted in the Hospital for Typhoid and Jaundice on 22.10.2018. Whileso, the Assistant Commissioner of Police, Armed Reserve issued an order of desertion from work to the petitioner on, 20.11.2018. The Additional Commissioner of Police, Armed Reserve, Greater Chennai Police, on the basis of the proved charged issued a final order on 07.08.2019, imposing the punishment of postponment of the petitioner's next increment for a period of



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three years which shall not operate to postpone his future increments. The petitioner did not file an appeal challenging the said order. Meanwhile, to the shock and surprise of the petitioner, the first respondent issued a show cause notice dated 28.09.2019, to the petitioner to furnish a written explanation as to why the punishment awarded in the PR should not be enhanced. The petitioner submitted his oral explanation regarding his absence, but the 1st respondent did not consider the same. Thereafter, the first respondent issued a Modification of Punishment order dated 09.11.2019, removing the petitioner from service with immediate effect. Aggrieved by the impugned order the petitioner has filed the above writ petition for the aforesaid relief.

3.The respondents filed a detailed counter denying the averments raised in the writ petition. It was stated, interalia, that the first respondent exercising his suo moto power of review modified the punishment of the petitioner to one of removal from service as he found that for the proved charges the punishment imposed was disproportionate. Further the first respondent found that the punishment of postponement of increment for a period of three years which shall not operate to effect his future increment



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was too lenient a punishment for the petitioner as he was charged for desertion of work for the 5th time. According to the respondents, the impugned order was fair and reasonable and did not call for any interference.

4.I have heard both the learned counsels and I have perused the materials placed on record.

5.In the show cause notice dated 28.09.2019, of the first respondent for the proposed modification of punishment, it was stated as follows:

“4.I have taken up a Suo Moto review on the above said PR, and scrutinized the PR file and connected records carefully and thoroughly. In the minute, the Enquiry Officer has held the charge as “Proved” through the oral and documentary evidences. I feel that the punishment awarded is too lenient. Hence, I propose to enhance the Punishment.

5.In view of the gravity of the charge, you were directed to furnish a written explanation to this office within 15 days from the receipt of the Show Cause Notice as to why the punishment awarded in the said PR should not be enhanced. If you do not submit your explanation within the stipulated time it will be construed that you



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have nothing to offer and orders will be passed on merits.”

6.To the said show cause notice, the petitioner submitted his oral explanation, but the first respondent without assigning any reasons for rejecting the oral explanation, and without even recording the oral explanation in the impugned order merely stated that the explanation was considered and not acceptable. In my view, in the absence of any discussion on the oral explanation submitted by the petitioner and the reasons for rejecting the same, the impugned order cannot be sustained. It is trite in law that reasons are heart beat of decision. A quasi judicial authority is bound to assign reasons for his decision. It is only through the reasons that the application of mind of the quasi judicial authority to the materials on record is revealed. The Hon'ble Supreme Court succinctly stressed the importance of passing speaking orders by administrative and quasi judicial authorities in the case of ***Kranti Associates (P) Ltd. Vs. Masood Ahmed Khan*** reported in ***2010 (9) SCC 496***. I am therefore of the view that the impugned order has no legs to stand and hence the same is set aside.

7.In view of the above discussion, the petitioner is directed to submit



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his written explanation to the show cause notice dated 28.09.2019, along with the supporting documents, if any, within a period of two weeks from the date of receipt of a copy of this order. On receipt of the said explanation, the first respondent shall afford an opportunity of personal hearing to the petitioner and pass orders on merits and in accordance with law, within a period of four weeks thereafter.

8. Accordingly, this Writ Petition is allowed. However, there shall be no order as to costs.

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Index : Yes / No

Internet : Yes / No

Speaking order/Non-speaking order
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To

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N.MALA, J.

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