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W.P.No.29179 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :28.07.2025

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THE HONOURABLE Mr.JUSTICE C.KUMARAPPAN

W.P.No.29179 of 2024

and

W.M.P.Nos.31866 and 31868 of 2024

K.S.Harikrishnan

... Petitioner

Vs.

1. The Deputy Inspector General of Police,
Coimbatore Range,
Coimbatore.

2. The Superintendent of Police,
Coimbatore District,
Coimbatore.

3. The Deputy Superintendent of Police,
Valparai Sub-Division,
Valparai,
Coimbatore District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records on the file of the first and second respondents vide his proceedings in Na.Ka.No.F2/Tha.Pa.31/2023 dated 25.05.2023 and the impugned order of confirmation of the punishment passed by the first respondent on the



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petitioner's appeal vide his proceedings in Na.Ka.No.D2/Me.Mu.45/2023 dated 21.09.2023 and quash the both as illegal, arbitrary and violation of principles of natural justice.

For Petitioner : Mr.G.Thalamutharasu

For Respondents : Mr.R.Sasikumar,
Government Advocate

ORDER

The instant Writ Petition has been filed against the order dated 25.05.2023 passed by the second respondent in which the petitioner was imposed with punishment of postponement of his next increment for a period of three years without cumulative effect and another order dated 21.09.2023 passed by the first respondent in appeal in which the punishment imposed by the second respondent was confirmed.

2. The learned counsel for the petitioner would submit that he joined the respondent department as a Sub-Inspector of Police on 16.04.1999, and thereafter, he was promoted as Inspector of Police on 30.06.2012, at Thatchanallur Police Station, Tirunelveli City. Subsequently, the petitioner was transferred to North Police Station, Tiruppur City. He would further



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submit that in his 24 years of service, he did not come in any adverse notice of the department. While so, on 31.03.2023, the petitioner was issued with a show-cause notice to submit his explanation regarding the alleged complaint given by one Anandaraj. It is the further submission of the learned counsel that the said complaint is a corruption complaint against the petitioner. However, the respondent authority, despite the petitioner's specific denial, without conducting any enquiry, has proceeded with the disciplinary proceedings and imposed punishment. Hence, prayed to interfere with the impugned order.

3. At this juncture, the learned Government Advocate appearing for the respondents invites the attention of this Court to the Tamil Nadu Police Subordinate Service (Discipline and Appeals) Rules, and would submit that the punishment imposed against the petitioner comes within the definition of minor punishment, for which there is no necessity to conduct any enquiry. Hence, he contended that the lack of an enquiry cannot be a valid defence to challenge the impugned order. Therefore, prays to dismiss the present writ petition.

4. I have given my anxious consideration to either side submissions.

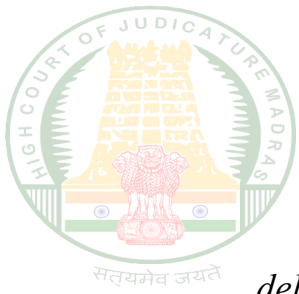


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5. It is an undisputed fact that the punishment imposed against the petitioner is a minor punishment. However, upon examining the complaint, it is evident that it pertains to a corruption charge against the petitioner. The respondent authority, without considering the petitioner's specific denial regarding the corruption charge and without accepting the explanation, has passed the impugned order. As rightly contended by the learned counsel for the petitioner, such action seriously prejudices the petitioner's interest. In this connection, it is appropriate to refer to the judgment of the Division Bench of this Court in ***C.K.G. Nathan vs. The Assistant Commandant, Central Industrial Security Force and Ors.***, reported in ***MANU/TN/0721/2009***, and the relevant paragraphs 6 and 7, which read as follows:-

“6. Whether such compliance of the principles of natural justice is also required in case where the rules do not contemplate an enquiry. In our opinion, even in case where the rules do not make a provision for enquiry in cases where minor penalties are imposed, nevertheless, the compliance of the principles of natural justice may be required and the non compliance may vitiate the order. Then again, it depends upon the facts of each case. In the event the charges are very minor and the order imposing minor penalty merely refers to the charge without adversely imputing anything about the

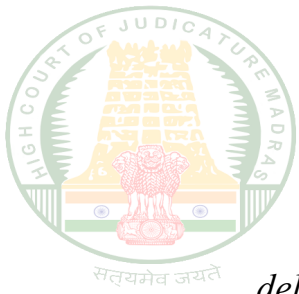


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delinquent employee, the failure to conduct an enquiry will not vitiate the order. However, the same cannot be the general rule. In case if the charges are serious in nature and nevertheless the employer proceeds to follow Rule 37 and the order of punishment contains certain adverse imputation, remarks or even comments on the delinquent employee which may be considered as a stigma or which may likely to affect his reputation in the eye of public, certainly the failure to conduct enquiry by giving an opportunity to such delinquent employee would vitiate the order for non compliance of the principles of natural justice. This principle also applies to the case where charges are minor, nevertheless some imputations/observations are made against the delinquent. The test to decide whether an enquiry is required or not is not the mere fact of minor penalty is imposed, but the nature of charges, the nature of observations or findings of the disciplinary authority while passing final orders of penalty. While deciding the question as to whether the failure on the part of the employer to hold an enquiry in the absence of rules would by itself vitiate the order, the Court must keep the above principles in mind.

7. When the petitioner specifically refutes the charges framed against him, it is but proper for the disciplinary authority to indicate the reasons in writing as to why the enquiry is dispensed with on the facts of the given case. This is more so because the authority is duty bound to consider the imputation of the misconduct or misbehaviour committed by the



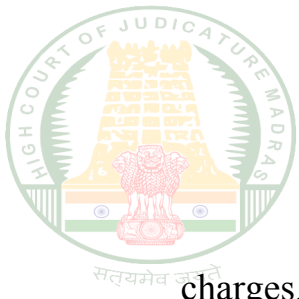
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*delinquent officer, the explanation offered by him and the relevant records to satisfy himself as to whether an enquiry is necessary or not in terms of Rule 37(1)(b) of the Rules. On the facts of this case, the explanation of refutation of the charges was not accepted and findings were rendered in the impugned orders holding that the charges were proved without assigning any reason. In our considered view, such a procedural lapse would defeat the valuable right of a delinquent employee to establish his case as to the imputation. **In fact the question of affording opportunity even for imposition of minor penalty came up for consideration before this Court in W.P.No.34587 of 2005 dated 1.4.2009 and this Court, following the judgment of the Supreme Court in O.K.Bhardwaj v. Union of India and others, 2002 SCC (L&S) 188, held that such an enquiry is mandatory, where the charges are refuted by the delinquent, and remitted the matter to the authorities for conduct of enquiry.***

(emphasis supplied)

6. While perusing the above ratio, it is obvious that notwithstanding the charges being minor, the test to decide whether an enquiry is required is not that the mere fact of a minor penalty being imposed, but the nature of the

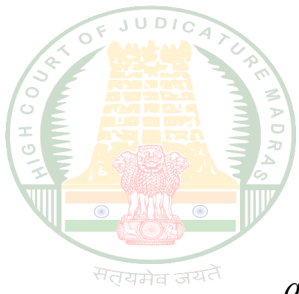


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charges. Here, upon examining the charges, which are grave in nature, the petitioner was denied the opportunity to cross-examine witnesses, on the premise of their decision to impose only a minor punishment. In this regard, the learned counsel for the petitioner also relied upon the judgment of the Hon'ble Division Bench of this Court in ***Nawabkhan vs. Superintendent of Police, Chengai MGR East District, Chennai, and another***, reported in ***(2008) 7 MLJ 1275***, wherein this Court laid down the ratio decidendi as follows:-

“I. Even in case where the rules do not make a provision for enquiry in cases where minor penalties are imposed, nevertheless, the compliance of the principles of natural justice may be required and the non compliance may vitiate the order. It depends upon the facts of each case. In the event the charges are very minor and the order imposing minor penalty merely refers to the charge without adversely imputing anything about the delinquent employee, the failure to conduct an enquiry will not vitiate the order. However, the same cannot be the general rule. In case if the charges are serious in nature and nevertheless the employer proceeds to follow Rule 37 of the Central Industrial Security Force and the order of punishment contains certain adverse imputation, remarks or even comments on the delinquent employee which may be considered as a stigma or which may be likely to



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*affect his reputation in the eye of public, certainly the failure to conduct enquiry by giving an opportunity to such delinquent employee would vitiate the order for non compliance of the principles of natural justice. This principle also applies to the case where charges are minor, nevertheless some imputations/observations are made against the delinquent. **The test to decide whether an enquiry is required or not is not the mere fact of minor penalty is imposed, but the nature of charges, the nature of observations or findings of the disciplinary authority while passing final orders of penalty.'***

II. "An enquiry is mandatory, where the charges are refuted by the delinquent."

(emphasis supplied)

7. Admittedly, in the present case, the petitioner was not given any opportunity to appear before the enquiry officer, nor was he given any opportunity to adduce evidence, cross-examine the complainant, or defend the charges. The appellate authority also failed to consider the aspect of non-conducting of an enquiry, which has caused serious prejudice to the petitioner.

8. In view of the above discussion, this Court deems it appropriate to



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quash the impugned orders dated 25.05.2023, and 21.09.2023, and the matter is remitted back to the respondents to conduct a fresh enquiry, giving the petitioner an opportunity to cross-examine the complainant and following all due procedures as provided for a major penalty.

9. In the result, this Writ Petition is allowed. Consequently, the connected Miscellaneous Petitions are closed. No costs.

28.07.2025

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Index : Yes/No

Speaking order /Non Speaking Order

Neutral Citation : Yes/No

To

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Coimbatore Range,
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2. The Superintendent of Police,
Coimbatore District,
Coimbatore.

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C.KUMARAPPAN, J.

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