



W.P.No.30668 of 2022

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.04.2025

CORAM:

THE HONOURABLE MRS. JUSTICE **N.MALA**

W.P.No.30668 of 2022

A. Chandrasekaran

... Petitioner

Vs

1. The Secretary to Government
Home (Police – IV) Department
Fort St.George,
Chennai 600 009.
2. The Director General of Police
Dr.Radhakrishnan Road,
Mylapore, Chennai – 600 004.
3. The Additional Director General
of Police (Admin),
Dr.Radhakrishnan Road,
Mylapore, Chennai – 600 004.
4. The Deputy Inspector General of Police
Tirunelveli Range,
Tirunelveli.
5. The Superintendent of Police
Tirunelveli District,
Tirunelveli.

... Respondents



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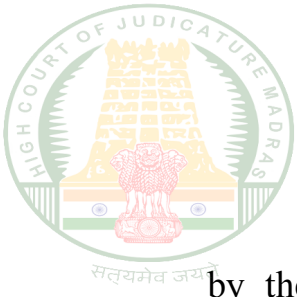
Prayer: Writ petition filed under Article 226 of the Constitution of India, praying to issue a writ of certiorarified mandamus to call for the entire records in connection with the impugned order passed by the 4th respondent in P.R.No.30/2013/Tirunelveli district C1/16101/2012-Tirunelveli range dated 06.01.2014 and the order passed by the 3rd respondent in R.Dis.No.88882/AP 2(1)/2014 dated 18.10.2014 and the order by the 2nd respondent in R.C.No.127763/AP 2(1)/2015 dated 07.05.2016 and the rejection order passed by the 1st respondent in an G.O.(D).No.205, Home (Pol-IV) department dated 17.02.2017 and to quash the same as illegal, incompetent and non-application of mind and consequently direct the respondents 1 and 2 to grant all consequential service and monetary benefits by including the petitioner's name in the promotion panel drawn of 2015-2016 on par with his juniors within reasonable time.

For Petitioner : Mr.MA.P.Thangavel

For Respondent : Mr.E.PSenniyangiri
Government Advocate

ORDER

This writ petition is filed for a writ of certiorarified mandamus to call for the entire records in connection with the impugned orders passed

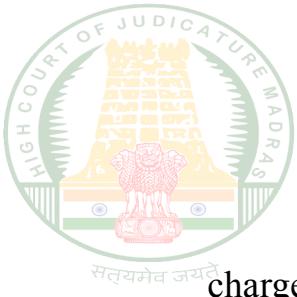


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by the 4th respondent dated 06.01.2014, the order passed by the 3rd respondent dated 18.10.2014, the order passed by the 2nd respondent dated 07.05.2016 and the rejection order passed by the 1st respondent in G.O.(D).No.205, Home (Pol-IV) Department dated 17.02.2017, to quash the same as illegal, incompetent and consequently direct the respondents 1 and 2 to grant all consequential service and monetary benefits by including the petitioner's name in the promotion panel drawn for 2015-2016 on par with his juniors within reasonable time.

2. The petitioner entered into service as Sub Inspector of Police through Tamil Nadu Uniformed Services Recruitment Board, in the year 1996. On the basis of his seniority he was promoted as Inspector of Police in the year 2006 and further promoted as Deputy Superintendent of Police in the year 2018. While he was serving as Inspector of Police, departmental proceedings were initiated against him under Rule – 3(b) of the Tamil Nadu Police Subordinate Service (Discipline and Appeal) Rules – 1955 (hereinafter referred to as TNPSS (D&A) Rules) in P.R.No.30/2013 (Punishment **Role** Number). Under the charge memo two



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charges were framed against him. The sum and substance of the charges were that, while he was serving as Inspector of Police, in Suthamalli Police Station, Tirunelveli District, he failed to give proper instructions to the Additional Public Prosecutor, Madurai Bench of Madras High Court on 26.09.2012, in respect of case in HCP.No.438 of 2012 and further failed to supervise the case registered by the Women Sub-Inspector of Police, in Crime No.384/2012, Suthamalli Police Station, Tirunelveli District by not taking any steps to alter the report which was filed quoting a wrong provision of law.

3. The petitioner denied the charges, however the disciplinary authority appointed the enquiry officer namely the Additional Superintendent of Police, PEW, Tuticorin District, as Enquiry Officer (EO). The enquiry officer conducted the enquiry and submitted the report holding that the charge No.1 was proved and the 2nd charge against the petitioner was “not proved”. After the receipt of the enquiry officer's report, the disciplinary authority namely, the 4th respondent herein, issued a show cause notice calling for further explanation, for which, the



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petitioner submitted his explanation on 30.10.2013. After the receipt of the explanation, the 4th respondent, by his proceedings in P.R.No.30/2013/Tirunelveli District C1/16101/2012-Tirunelveli Range dated 06.01.2014, imposed the punishment of “Postponement of increment for two years which shall operate to postponement his future increment”. Aggrieved by the order, the petitioner preferred an appeal to the 3rd respondent and the 3rd respondent by his proceedings in R.Dis.No.88882/AP 2(1)/2014 dated 18.10.2014, modified the punishment into one of “Postponement of increment for one year which shall operate to postponement his future increment”. The petitioner thereafter preferred a Mercy petition to the 2nd respondent on 07.04.2015 and the 2nd respondent by his proceedings in R.C.No.127763/AP 2(1)/2015 dated 07.05.2016, reduced the punishment into one of “Postponement of increment for six months without cumulative effect”. Subsequently, the petitioner preferred a petition to the 1st respondent and the same was rejected vide the impugned G.O.(D).No.205 Home (Pol-IV) Department dated 17.02.2017. Challenging the aforesaid order's, the present writ petition is filed.



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4. The fourth respondent filed a detailed counter stating inter alia, that the enquiry officer in his report held that, of the two charges the first charge was proved and the second charge was not proved. The respondent's stated that it was settled principle of law that in disciplinary proceedings, preponderance of probabilities was sufficient and the same did not require proof beyond doubt. According to the respondents, based on the probabilities of the case and weight of evidence, the enquiry officer arrived at his findings and the disciplinary authority on the basis of the enquiry report, fairly awarded the punishment to the petitioner, which was later reduced by the appellate authorities. The respondents therefore submitted that there were no merits in the writ petition and the same deserved to be dismissed.

5. The learned counsel for the petitioner submitted that the orders passed by the respondents were liable to be set aside, as the respondents failed to note that the enquiry officer failed to either examine the



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Government Advocate/Additional Public Prosecutor or obtain any report from the office of the Public Prosecutor, in proof of the first charge. The counsel further submitted that in the absence of any material or evidence, the finding of the enquiry officer, that the first charge against the petitioner was proved could not be sustained and therefore the impugned orders deserved to be quashed.

6. The learned counsel for the petitioner further submitted that though the petitioner preferred an appeal, mercy petition and review to the respondents 1 to 3, none of the said respondents considered the communication of the Public Prosecutor's Office to the 4th respondent dated 15.03.2014. The learned counsel submitted that in the said letter, the learned Government Advocate categorically stated that the Inspector of Police, Suthamalli Police Station, gave proper instructions, filed a status report and so the role of the Inspector of Police, in the case could not be faulted. The counsel submitted that the aforesaid communication dated 15.03.2014, clearly established that there was no dereliction of duty by the petitioner and hence the punishment imposed on him was illegal



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and liable to be quashed.

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7. The learned Additional Government Pleader for the respondents reiterated the submissions made in the counter affidavit.

8. Heard both sides and perused the materials available on record.

9. **Gist of Facts:-** The undisputed facts are that while the petitioner was serving as Inspector of Police, departmental proceedings were initiated against him under Rule – 3(b) of the TNPSS (D&A) Rules in P.R.No.30/2013 (Punishment Role Number). Two charges were framed against the petitioner, the sum and substance of which is that, while he was serving as Inspector of Police, in Suthamalli Police Station, Tirunelveli District, he failed to give proper instructions to the Additional Public Prosecutor, Madurai Bench of Madras High Court, on 26.09.2012, in respect of case in HCP.No.438 of 2012, and failed to supervise the case registered by the Women Sub-Inspector of Police in Crime No.384/2012, Suthamalli Police Station, Tirunelveli District, by not taking any steps to



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alter the report filed by quoting a wrong provision of law. An enquiry officer was appointed, the enquiry officer conducted the enquiry and submitted the report holding that the 1st charge was proved and the 2nd charge was “not proved”. After the receipt of the enquiry officer's report, the disciplinary authority namely, the 4th respondent herein issued a show cause notice calling for further explanation, for which, the petitioner submitted his further explanation on 30.10.2013. After the receipt of the further explanation, 4th respondent by his proceedings dated 06.01.2014, imposed the punishment of “Postponement of increment for two years which shall operate to postponement his future increment”. Aggrieved by the order the petitioner preferred an appeal to the 3rd respondent and the 3rd respondent in his proceedings dated 18.10.2014, modified the punishment into one of “Postponement of increment for one year which shall operate to postponement his future increment”. Against the said order, the petitioner preferred a Mercy petition, to the 2nd respondent on 07.04.2015 and the 2nd respondent by his proceedings dated 07.05.2016, reduced the punishment into one of “Postponement of increment for six months without cumulative effect”. Thereafter, the petitioner preferred a



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petition before the 1st respondent and the same was rejected vide G.O.(D).No.205 Home (Pol-IV) department dated 17.02.2017.

10. The petitioner's specific case is that he had filed a status report through the Additional Public Prosecutor, Madurai Bench of Madras High Court in the HCP case. As rightly contended by the petitioner had the enquiry officer, summoned and examined the Government Advocate/Additional Public Prosecutor or called for a report from the office of the Public Prosecutor, the status report filed by the petitioner would have been placed before him by them. As the aforesaid persons were not summoned and examined by the enquiry officer, the petitioner was not able to produce the status report before the enquiry officer. In any event, the petitioner obtained a copy of the status report dated 25.06.2012 from the Additional Public Prosecutor's office along with the docket sheet and filed the same before the 3rd respondent. The petitioner also obtained a letter from the Government Advocate, Madurai Bench of Madras High Court, to establish that he had given proper instructions in the HCP case. Despite the production of the aforesaid materials overlooking the same,



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the 3rd respondent passed the impugned order of punishment on 18.10.2014. Even the 1st & 2nd respondents did not consider the vital document viz., status report, relied on and placed by the petitioner before them.

11. Further the respondents failed to consider in proper perspective the petitioner's contention that no complaint was filed at Suthamalli Police Station, Tirunelveli District on 08.05.2011 and that the other complainant had filed a complaint only before the Commissioner of Police, Tirunelveli city on 08.01.2012, which fell beyond his jurisdiction. The status report clearly shows that the petitioner specifically stated that no complaint as stated was filed in the Suthamalli Police Station, Tirunelveli District. In the light of the status report, the finding of the enquiry officer that charge no.1 against the petitioner was proved cannot be endorsed. As this Court on the basis of the status report finds that even charge no.1 against the petitioner is not proved, the impugned orders of punishment based on the erroneous findings in the enquiry report cannot be sustained and hence are set aside. The respondents 1 to 3 did not refer



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to the vital document, viz status report and imposed the punishment on the petitioner on the assumption that charge no.1 was proved. As the finding on charge no.1 is found to be erroneous, the punishment imposed under the impugned orders deserve to be set aside. It is relevant to note here that the second charge levelled against the petitioner was held to be not proved, by the enquiry officer. I find merit in the writ petition and hence the impugned orders are quashed.

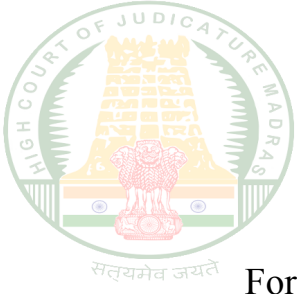
12. Accordingly, the writ petition is allowed. There shall be a direction to respondents 1 and 2 to include the name of the petitioner in the promotion panel drawn for 2015-2016, on par with his juniors and grant consequential service and monetary benefits within a period of twelve weeks from the date of receipt of a copy of this order. No costs.

25.04.2025

dpq
Index: Yes/No
Speaking order / Non speaking order

To
1. The Secretary to Government
Home (Police – IV) Department

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Fort St.George,
Chennai 600 009.

2. The Director General of Police
Dr.Radhakrishnan Road,
Mylapore, Chennai – 600 004.
3. The Additional Director General
of Police (Admin),
Dr.Radhakrishnan Road,
Mylapore, Chennai – 600 004.
4. The Deputy Inspector General of Police
Tirunelveli Range,
Tirunelveli.
5. The Superintendent of Police
Tirunelveli District,
Tirunelveli.

N. MALA, J.

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