



W.P.No.36105 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.01.2025

CORAM:

THE HONOURABLE **MRS. JUSTICE V.BHAVANI SUBBAROYAN**

W.P.No.36105 of 2024
and WMP.No.40144 of 2024

A. Ganesan

... Petitioner

Vs

The Principal Secretary to Government
Home (Police) Department
Government of Tamil Nadu
Secretariat Fort St.George,
Chennai 600 009.

...Respondent

Prayer: This 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 respondent relating to impugned order in G.O.(2D).No.146 dated 27.05.2024 and to quash the same and consequently direct the respondent to reinstate the petitioner in service within the time stipulated by this Court.

For Petitioner : Mr.S.Sheik Ismail

For Respondent : Mr.Stalin Anhimanyu
Additional Govt.Pleader

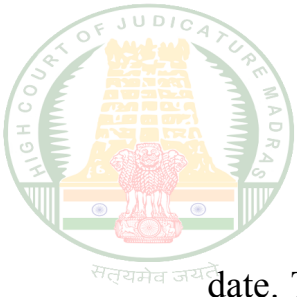


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ORDER

WEB COPY This Writ Petition has been filed for issuance of a Writ of Certiorarified Mandamus to call for the records of the respondent relating to impugned order in G.O.(2D).No.146 dated 27.05.2024 and to quash the same and consequently direct the respondent to reinstate the petitioner in service.

2. The case of the petitioner is that he is an Ex-Inspector of Police served in Sale City Police (formerly Palani Town Circle, Dindigul District in 2016). The charge was initiated against the petitioner based on the preliminary enquiry report. The Superintendent of Police, Dindigul district who initiated charge against the petitioner himself conducted oral enquiry, examined 7 prosecution witnesses, filed 14 prosecution exhibits and examined 5 defense witnesses and concluded his findings and held the charge as proved, even after the petitioner have clearly explained in his explanation, the dismissal order passed in G.O.(2D).No.146, Home (Police-2) Department, dated 27.05.2024 by the respondent. Hence the petitioner preferred the revision petition challenging the impugned order before the respondent. However, the same has not been considered till



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date. The act of respondent is non-est in the eye of law. Hence, left with no other option, the petitioner has approached this Court seeking the relief to call for records of the respondent relating to impugned order in G.O.(2D).No.146 dated 27.05.2024 and to quash the same.

3. The petitioner counsel contend that the impugned order has been passed without considering that the Authorities of D.I.Gs and above rank Officers are empowered to initiate charge u/r 3(b) against the Inspectors of Police as per Police Standing Orders and as well as Tamil Nadu Police Subordinate Services (Discipline and Appeal) Rules 1955, whereas, in his case the charge is initiated by the Superintendent of Police, Dindigul District under date 29.08.2018 who is not the competent authority. According to the petitioner, impugned order was passed without considering the materials and contradictions raised by him. The enquiry Officer failed to collect the mobile phone (original source) to ascertain the genuineness of the allegation of demanding and receiving bribe. An erroneous conclusion reached by the enquiry officer and the respondent is not valid in the eye of law.



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4. It is further contended by the learned counsel for the petitioner that the contradiction of the oral version of the prosecution witness and the written version of the petitioner was not considered. The Enquiry Officer failed to examine the men and women constable present in the alleged video recording. The enquiry officer has proceeded with the enquiry only on the basis of the pen drive of the alleged video without collecting the mobile of the prosecution witness which raise a doubt that there is a chance of fabricating the video. Hence in such scenario reaching a conclusion of charge being proved against the petitioner is not valid in the eye of law. The allegation against the petitioner is foisted to settle the personal score and as a vendetta since the First Information Report has been registered against the PW1 & 2. Since the revision petition was not considered for a long period they have filed this writ petition and stated that the writ petition is maintainable and an alternate remedy has been invoked.

5. Heard both side and perused the materials available on record.



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6. On perusal of records, the appropriate questions and answers which have been raised in the enquiry report attached in the typed set of papers, which says that the said person who was giving evidence was not in a position to say anything regarding the said video which was taken in the office of the ADSP Office and the person has said that he do not remember anything and that too within a period of three months and the same was not considered by the authorities concerned and various places where the evidences of the witnesses has not been properly considered by the authorities and without giving any reasons for the said order, the impugned order has been passed. Even the petitioner's consent has not been found to be at fault in various pieces of evidence given by the witnesses and without any proper analyse of the said evidence the impugned order has been passed and the petitioner seeks that the respondent has to consider all these aspects while considering his revision petition.

7. As this Court cannot go into all these factual aspects this Court directs the first respondent to consider the case of the petitioner after



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affording an opportunity of hearing and consider the revision petition and pass appropriate orders in detail including the objection raised by the petitioner in the revision petition within a period of sixteen weeks from the date of receipt of a copy of this order. Since an opportunity of hearing to be given time granted is for sixteen weeks. The petitioner is permitted to produce any of the records which he relies upon before the authority concerned and the cross examination of the same would be done by the prosecution also.

8. With the above direction, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is also closed.

31.01.2025

Speaking order : Yes/No
Neutral citation : Yes/No
Index : Yes/No
dpq

V.BHAVANI SUBBAROYAN, J.



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