



W.A(MD) No.140 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 03.01.2025

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**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN  
AND  
THE HONOURABLE MRS.JUSTICE S.SRIMATHY**

W.A(MD) No.140 of 2020

T.Gajendran

... Appellant / Writ Petitioner

Vs

1.The Principal Secretary to the Government,  
Home (Police IV A) Department,  
Chennai-9.

2.The Director General of Police,  
Chennai.

3.The Commissioner of Disciplinary Proceedings,  
Madurai. ... Respondent / Respondent

**PRAYER:** Writ Appeal filed under Clause 15 of Letters Patent, praying this Court to set aside the Judgment dated 12.09.2019 in W.P.(MD)No. 14971 of 2013 on the file of this Court.

For Appellants : Mr.Ajmal Khan  
Senior Counsel  
for M/s.Ajmal Associates



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For Respondent : Mr.K.S.Selvaganesan  
Additional Government Pleader

### **ORDER**

(Order of the Court was made by **G.R.SWAMINATHAN, J.**)

Heard the learned senior counsel appearing for the appellant and the learned Additional Government Pleader appearing for the respondents.

2. The writ appeal is directed against the order dated 12.09.2019 made in W.P.No.14971 of 2013 filed by the appellant. The appellant was working as Sub Inspector of Police, Elumalai Police Station in the year 2002. Vigilance complaint was made against him on 14.12.2002 at about 24 hours by one Jegatheesh Chandra. The substance of the complaint was that his Swaraj Mazda Van bearing Registration No.TN 58 6951 which was loaded with chicken was ordered to be brought to Elumalai Police Station ostensibly for traffic overloading and for want of documents. It was also alleged that the appellant demanded a sum of



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Rs.1,000/- as bribe for releasing the van and for not registering a case.

The vigilance complaint was lodged on 16.12.2002. Trap was organized.

But the trap failed. It was recommended that the matter may be enquired by the commissioner for disciplinary proceedings, Madurai.

3.The case was taken up in T.D.P.No.2 of 2004 against the appellant herein. Along with the appellant, one Gurusamy who was working as Head Constable in the very same police station was arrayed as accused No.2. After examining the witness and perusing the evidence on record, the Commissioner for Disciplinary Proceedings vide enquiry report dated 27.09.2004 held that the charge made against the appellant was proved. The Head Constable Gurusamy was however exonerated. The enquiry report was considered by the Director General of Police, Chennai-4 and after hearing the appellant's further representation, imposed the penalty of reduction in the time scale of pay by one stage for one year with cumulative effect. It was further ordered that it would operate to postpone future increments.



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4.Questioning this order dated 09.03.2007, the appellant filed W.P. (MD)No.9764 of 2007. It was disposed of on 09.10.2012 granting liberty to the appellant to exhaust his appeal remedy before the Government. Availing the said liberty, the appellant moved the Government. The appeal was however dismissed vide G.O.(2D)No.97, Home (Police.IVA) Department, dated 25.03.2013. Challenging the said orders, the appellant filed W.P.(MD)No.14971 of 2013. The writ petition was dismissed vide order dated 12.09.2019. Challenging the same, this intra-court appeal has been filed.

3. The learned Senior Counsel appearing for the appellant reiterated all the contentions set out in the memorandum of grounds of writ appeal and called upon this Court to set aside the order impugned in the writ appeal and grant relief as prayed for.

4.Per contra, the respondents have filed counter affidavit and the learned Additional Government Pleader took us through its contents. The learned Additional Government Pleader submitted that the appellant was charged with having demanded illegal gratification and that the tribunal



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had found the issue against the appellant. The correctness of the said finding was tested by the appellant before the disciplinary authority as well as the appellate authority. Both the authorities found against the appellant. He submitted that this Division Bench in exercise of its jurisdiction under Clause 15 of the Letters Patent may not re-appreciate the evidence on record. He called upon this Court to sustain the impugned order and dismiss the appeal.

5. We carefully considered the rival contentions and went through the materials on record. The charge against the appellant can be divided into two parts.

A. The detention of the vehicle in question in the station.

B. The demand of illegal gratification.

As already noted, the trap organized by the vigilance police failed. Even before the tribunal, the complainant Jagadeesh Chandran did not support the charge. He turned hostile. The van driver also turned hostile. These two are the principal witnesses. More than anything else, the official witness who accompanied the complainant categorically deposed that the appellant herein refused to take the amount offered by



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the complainant saying that he did not require the money. The appellant is said to have advised the complainant to go to the court and remit the fine amount. When this was the stand taken by the official witness, we fail to understand as to how the tribunal arrived at a finding that demand for illegal gratification stood established by preponderance of probability. It is also relevant to note that the accused No.2 namely Gurusamy who was the head constable who had actually received the amount of Rs.300 from the complainant was completely exonerated of the charge. We therefore come to the conclusion that the charge that the appellant demanded illegal gratification is based on 'no evidence'. To this extent, the impugned orders warrant interference. However, we are satisfied that the appellant could not have detained the vehicle in the police station. In fact, the appellant does not deny having directed P.W.2 to take the vehicle to the police station. The Director General of Police in his order dated 09.03.2007 had also observed that the accused officer could not have impounded the vehicle which was loaded with chickens for minor violation for one day thereby causing physical suffering to the chickens as well as financial loss to the vehicle owner.



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6.In this view of the matter, the penalty imposed on the appellant is modified to one of reduction in the time scale of pay by one stage for one year. The second part of the penalty which states that this penalty would operate to postpone his future increments would stand set aside. The penalty will not have any effect on the petitioner's pension. The impugned orders are accordingly modified. The writ appeal is partly allowed. No costs.

(G.R.S., J.) (S.S.Y., J.)  
03.01.2025

Index : Yes / No  
Internet : Yes / No  
NCC : Yes / No  
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To

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