

V.S.Kalivarathan Vs. 1.The Director General of Police,

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Court : Chennai

Decided On : Jun-26-2014

Judge : R.Mahadevan

Appellant : V.S.Kalivarathan

Respondent : 1.The Director General of Police,

Judgement :

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT DATED:

26. 06.2014 CORAM THE HONOURABLE MR.JUSTICE R.MAHADEVAN W.P(MD)No.8288 of 2008 V.S.Kalivarathan ... Petitioner Vs. 1.The Director General of Police, Chennai - 600 004. 2.The Additional Director General of Police, (Law and Order), Chennai - 600 004. 3.The Deputy Inspector General of Police, Trichy Range, Trichy. ... Respondents Prayer Petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus to call for the records relating to the impugned order of the first respondent passed in R.C.No.061198/AP IV(1)/2008 dated 02.07.2008 confirming the impugned order of the second respondent passed in R.C.No.AP IV(1)/027420/2008 dated 03.02.2008 modifying the impugned order of the third respondent in R.C.Na.Ka.No.B1/PR372007 dated 21.11.2007 and quash the same and consequently, direct the respondents herein to consider the promotion of the petitioner as Deputy Superintendent of Police on par with his juniors with all monetary and attendant benefits. !For Petitioner ... Mr.Veera Kathiravan ^For

Respondents ... Mr.R.Velmurugan, Govt. Advocate :

ORDER

This writ petition has been filed seeking a writ of Certiorarified Mandamus to call for the records relating to the impugned order of the first respondent passed in R.C.No.061198/AP IV(1)/2008 dated 02.07.2008 confirming the impugned order of the second respondent passed in R.C.No.AP IV(1)/027420/2008 dated 03.02.2008 modifying the impugned order of the third respondent in R.C.Na.Ka.No.B1/PR372007 dated 21.11.2007 and quash the same and consequently, direct the respondents herein to consider the promotion of the petitioner as Deputy Superintendent of Police on par with his juniors with all monetary and attendant benefits.

2. Brief facts of the case of the petitioner, are as follows:

2. 1. The petitioner was appointed as Sub Inspector of Police on 28.09.1987 and he was given promotion as Inspector of Police on 08.08.1998. He completed 21 years of service. Now, the petitioner is working as Inspector of Police in Economic Offences Wing - II, Trichy. While so, the petitioner was served with a charge memo by the third respondent in PR.No.77/2006 as per Rule 3(b) of the Tamil Nadu Police Subordinate Service (Discipline and Appeal) Rules, 1955, alleging that while the petitioner was working as Inspector of Police at Manaparai Police Station, on 15.02.2006, he conducted a prohibition raid and registered a criminal case in Cr.No.87 of 2006 for the offence committed by the accused under Section 4(1)(a) read with Section 4(1)(A) of the Tamil Naud Prohibition Act and he took Rs.24,000/- (Rupees Twenty Four Thousand only) from the house of the accused Rani and handed over Rs.10,000/- (Rupees Ten Thousand only) to the Sub Inspector of Police, by name, Rameshkumar. The petitioner gave his explanation to the charge memo. An Enquiry Officer was appointed and in the enquiry, it is held that the charges levelled against the petitioner, are proved. On receiving the enquiry report, the petitioner submitted his detailed explanation on 15.03.2007. Thereafter, the third respondent passed an order of punishment on 21.11.2007. Aggrieved by the same, the petitioner preferred an appeal to the second respondent, who modified the punishment imposed by the disciplinary authority.

Being dissatisfied with the same, the petitioner preferred a revision to the first respondent, who, by order dated 02.07.2008, confirmed the order of the appellate authority. Challenging the same, the petitioner is before this Court. 2.2 The third respondent filed the counter affidavit denying the averments made by the petitioner and contended that the Enquiry Officer based on the evidence available on record, held that the charge against the petitioner is proved and the disciplinary authority imposed the punishment of reduction of pay by one stage for a period of one year and the period of reduction shall operate to postpone his future increment, which, was modified by the appellate authority to the effect that the reduction in time scale of pay by one stage for one year and it shall not operate to postpone his future increment and that the revision filed by the petitioner is also rejected and hence, no interference is warranted at the hands of this Court and prayed for the dismissal of the writ petition.

3. The learned Counsel for the petitioner submitted that the disciplinary authority did not consider the entire evidence available on record in arriving at his conclusion that the charges levelled against the petitioner, were proved and the appellate authority while modifying the order of punishment, ought to have considered the evidence adduced, but it was not done so. He further contended that the revisional authority also failed to pass a speaking order adducing the reasons, however, the revision was rejected. Therefore, he prays for allowing the writ petition.

4. Whereas the learned Government Advocate appearing for the respondents reiterated the averments made in the counter affidavit filed by the third respondent.

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

6. It is seen that the petitioner was imposed with a punishment of reduction of pay by one stage for a period of one year and the period of reduction shall operate to postpone his future increment, by the disciplinary authority on the basis of the enquiry report submitted by the Enquiry Officer. Thereafter, the petitioner filed an appeal to the appellate authority, who, by order dated 03.02.2008, modified the punishment imposed on the petitioner as reduction in time scale of pay by one stage for one year and it shall not operate to postpone his future increment,

against which, the petitioner filed a revision before the first respondent and the same was also dismissed, without adducing any reasons thereon.

7. A scrutiny of the impugned orders herein would exhibit the non- application of mind on the part of the appellate authority as well as the revisional authority, since they have passed the impugned orders without even adducing any proper reasons for arriving at such conclusion. Accordingly, this Court is of the view that the impugned orders passed by the respondents 1 and 2, are not sustainable and they are liable to be set aside.

8. In fine, this writ petition is allowed and the impugned orders dated 02.07.2008 and 03.02.2008, passed by the respondents 1 and 2 respectively, are set aside. The matter is remitted to the second respondent, who shall redo the entire process by considering each and every objections raised by the petitioner and thereafter, pass appropriate orders on merits and in accordance with law, after affording due opportunity to the petitioner, within a period of six weeks from the date of receipt of a copy of this order. Till such order is being passed by the second respondent, status quo as on today, shall be maintained. No costs. To 1.The Director General of Police, Chennai - 600 004. 2.The Additional Director General of Police, (Law and Order), Chennai - 600 004. 3.The Deputy Inspector General of Police, Trichy Range, Trichy.

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