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W.P.No.10910 of 2008

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 21.09.2022

DELIVERED ON : 31.10.2022

CORAM:

THE HON'BLE MR.JUSTICE K. KUMARESH BABU

W.P.No.10910 of 2008

and

W.M.P.No.2 of 2012

P.A.Appasamy ... Petitioner

Vs

1.The Inspector General of Police
Economic Offences Wing I,
Headquarters
Admiralty Building,
Governement Estate,
Chennai 600 002.

2.The Additional Director General of Police
(Law and Order)
Santhome High Road,
Mylapore, Chennai – 600 004.

3.The Joint Commissioner of Police,
South Zone,
Greater Chennai City Police,
St. Thomas Mount,
Chennai – 600 016.

4.R.Arun, I.P.S.
Deputy Commissioner of Police and
Enquiry Officer,
St. Thomas District at
St. Thomas Mount, Chennai – 600 016. ... Respondents



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(R4 dismissed for non-payment of batta vide order dated 28.04.2010)

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PRAAYER: Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Certiorari, calling for the records of the respondents in connection with the impugned order passed by the respondents 1 and 2 in PR.No.5/2006 dated 27.12.2007 and C.No.162096/AP3(3)/2007 dated 01.04.2008 respectively and quash the same.

For Petitioner : Mrs.Dhakshayani Reddy

For Respondents : Mrs.P.Raja Rajeswari
Government Advocate

ORDER

This instant Writ Petition has been filed challenging the order passed by the 1st and 2nd respondent imposing punishment of reduction in rank as an Sub-Inspector of police.

2.Heard Mrs.Dhakshayani Reddy, learned counsel appearing for the petitioner and Mrs.P.Raja Rajeswari, learned Government Advocate appearing for the respondents.



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3. The learned counsel for the petitioner would submit that the petitioner was directly recruited as Sub-Inspector of police in the year, 1997 and was promoted as Inspector of Police in the year, 1999. During his service as an Inspector of Police at Pazhavanthangal Police Station, he was issued with a charge memo on 21.05.2005, alleging various delinquencies. To the said charge memo he had sought for various documents which were not furnished to him. However, he had participated in the enquiry proceedings but, however, admittedly certain documents which were not given to him on the pretext that they were not relied upon during the enquiry. He did not produce any defence witnesses on his side. The Enquiry Officer had drawn an exparte minute holding that all the charges against the petitioner was proved, which was served upon the petitioner on 02.04.2007. He submitted a reply stating that various documents which were all relevant to him were not furnished to him to establish his defence and as and when the documents is provided to the petitioner, he will cross-examine the witnesses examined during the oral enquiry. However, without considering his representation, the 1st respondent herein had proceeded on the basis that the petitioner had not submitted his written submission of defence to the findings of the Enquiry



Officer and held that the charges have been proved and imposed a punishment of reduction in rank of Sub-Inspector of Police for a period of three years. Against which the petitioner had preferred an appeal to the 2nd respondent herein. He had also approached this Court in W.P.No.2028 of 2008 seeking to quash the order of the 1st respondent dated 27.12.2007 as there was no power for the Appellant Authority namely the 2nd respondent herein to grant any interim order. This Court by order dated 25.01.2008 disposed of the said Writ Petition directing the 2nd respondent herein to take note of the written submission of the defence while considering the appeal and also the various grounds of appeal which are dealt with in detail and pass orders within a period of one month from the date of receipt of a copy of this order. Thereafter, the 2nd respondent herein had passed order on 01.04.2008, rejecting the contention of the petitioner, as not acceptable. But, however, modified the punishment by imposing a punishment of reduction of rank of Sub-Inspector for a period of six months.

4. Mrs. Dhakshayani Reddy, learned counsel for the petitioner would vehemently contend that the 2nd respondent had not dealt with the appeal



as directed by this Court in its order dated 25.01.2008. The 2nd respondent has not considered the written statement of defence at all. She would further contend that there was no reasons assigned by the respondent as to how the contentions raised by the petitioner in his appeal was not acceptable. No reasons whatsoever has been assigned by the Appellate Authority to reject the grounds raised by the petitioner. She also further submitted that the petitioner had been promoted as Deputy Superintendent of Police in G.O.Ms.No.143 Home(Police-2) Department dated 11.03.2022 and by order dated 06.05.2022. He was also posted as Assistant Commissioner of Police, Estate Welfare and Community Policing, Avadi, Commissionerate, Chennai. She also further submitted that the petitioner has only four months of service and is due to retire. Considering the aforesaid facts, she pleaded to set aside the orders of the 1st and 2nd respondents, imposing the punishment of reduction in rank.

5. Countering her arguments Mrs.P.Raja Rajeswari, learned Government Advocate would vehemently contend that the petitioner had not participated in the enquiry proceedings and was trying to delay the same, by claiming documents, which were not relevant to the disciplinary



proceedings. She would further contend that the petitioner had not placed any valuable material to disprove the allegations against him. She contended that there were about 17 witnesses examined on the side of the prosecution and 30 documents were marked. All of them pointed out that the charges have been proved for which originally a punishment of reduction in rank for a period of three years was given by the 1st respondent which was modified by the 2nd respondent, as a punishment of reduction in rank of Sub-Inspector of Police only for a period of six months. This itself was a lenient view taken against the petitioner, which do not warrant interference of this Court. She would further submit that consequent promotion given to the petitioner would not entitle him for a lenient view. Hence, therefore sought dismissal of the above Writ Petition.

6.I have considered the rival submissions made by the learned counsels appearing on both sides and perused the materials available of record before this Court.

7.I am not inclined to re-appreciate the evidences let in by disciplinary proceedings to find out whether the petitioner had been involved in the alleged delinquencies. The 1st respondent herein accepting



the enquiry report filed by enquiry officer had held that the petitioner has to undergo a punishment of reduction in rank to the post of Sub-Inspector

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for a period of three years. While passing the said order, he had not considered the request of the petitioner for various documents which was denied to him during the course of the oral enquiry. It is not denied that the petitioner had not participated in the disciplinary proceedings. However, the Enquiry Officer had submitted a report stating that the petitioner was set *ex parte*.

8. It is also an admitted fact that this Court while directing the 2nd respondent to dispose of the appeal by its order in W.P.No.2028 of 2008 has specifically directed the 2nd respondent to take into consideration the written submission of the defence and also the various ground in the appeal while considering the appeal filed by the petitioner. The 2nd respondent had given a clear go by to the said direction.

9. A perusal of the order of the 2nd respondent in dealing with the appeal filed by the petitioner would disclose that the 2nd respondent has casually rejected the contention of the petitioner stating that the same are



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not acceptable. The order passed by the 1st respondent is in complete violation of the orders passed by this Court. For better appreciation, the **WEB COPY** relevant direction issued by this Court in its order dated 25.01.2008 in W.P.No.2028 of 2008 is extracted hereunder:

“6. Since against this order an appeal remedy is provided, apart from the fact that the appellate authority has no power to grant interim orders, the appeal remedy is adequate insofar as the scope of the authority's jurisdiction to examine the materials on record is concerned. This Writ Petition is therefore disposed of as follows:-

The first respondent shall take note of the written statement of defence while considering the appeal and also the various grounds of appeal which are dealt with in detail and pass orders within a period of one month from the date of receipt of a copy of this order. The impugned order is kept in abeyance until then. No costs. Consequently, M.P.Nos 1 and 2 are closed.”

10. This Court in clear terms has directed the Appellant Authority namely the 2nd respondent herein to consider his defence submissions and



also the contentions raised in appeal while dealing with the appeal. The same has also been extracted by him in the impugned order passed by him
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dated 01.04.2008. Inspite of that, the 2nd respondent has passed the impugned order, he had not considered the written submissions of the defence or grounds of appeal raised by the petitioner.

11. Further the said order does not contain any reasons whatsoever as to how the 2nd respondent has come to the conclusion to reject the contentions raised by the petitioner.

12. The Hon'ble Apex Court had repeatedly held that while passing the order, reasons have to be given in support of the same. It would be appropriate to refer the judgment of the Hon'ble Apex Court in ***Kranti Associates Pvt. Ltd., and Others Vs Masood Ahmed Khan and Others*** reported in **2010 (9) SCC 496**. The Hon'ble Apex Court after summarising the various decisions has held as follows:

“47. Summarising the above discussion, this Court holds:

(a) In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially.



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(b) A quasi-judicial authority must record reasons in support of its conclusions.

(c) Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.

(d) Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi-judicial or even administrative power.

(e) Reasons reassure that discretion has been exercised by the decision-maker on relevant grounds and by disregarding extraneous considerations.

(f) Reasons have virtually become as indispensable a component of a decision-making process as observing principles of natural justice by judicial, quasi-judicial and even by administrative bodies.

(g) Reasons facilitate the process of judicial review by superior courts.

(h) The ongoing judicial trend in all countries committed to rule of law and constitutional governance is in favour of reasoned decisions based on relevant facts. This is virtually the lifeblood of judicial decision-making justifying the principle that reason is the soul of justice.

(i) Judicial or even quasi-judicial opinions these days can be as different as the judges and authorities who deliver them. All these decisions serve one common purpose which is to demonstrate by reason that the relevant factors have been objectively considered. This is important for sustaining the litigants' faith in the justice delivery system.



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(j) Insistence on reason is a requirement for both judicial accountability and transparency.

(k) If a judge or a quasi-judicial authority is not candid enough about his/her decision-making process then it is impossible to know whether the person deciding is faithful to the doctrine of precedent or to principles of incrementalism.

(l) Reasons in support of decisions must be cogent, clear and succinct. A pretence of reasons or “rubber-stamp reasons” is not to be equated with a valid decision-making process.

*(m) It cannot be doubted that transparency is the sine qua non of restraint on abuse of judicial powers. Transparency in decision-making not only makes the judges and decision-makers less prone to errors but also makes them subject to broader scrutiny. (See David Shapiro in *Defence of Judicial Candor*[(1987) 100 Harvard Law Review 731-37] .)*

(n) Since the requirement to record reasons emanates from the broad doctrine of fairness in decision-making, the said requirement is now virtually a component of human rights and was considered part of Strasbourg Jurisprudence. See Ruiz Torija v. Spain [(1994) 19 EHRR 553] EHRR, at 562 para 29 and Anya v. University of Oxford [2001 EWCA Civ 405 (CA)], wherein the Court referred to Article 6 of the European Convention of Human Rights which requires,

“adequate and intelligent reasons must be given for judicial decisions”.

(o) In all common law jurisdictions judgments play a vital role in setting up precedents for the future. Therefore, for development of law, requirement of giving reasons for the decision is of the essence and is virtually a part of “due process”.

13. The aforesaid judgment of the Hon'ble Apex Court has been



relied upon by various High Courts including this Court in its various decisions. I am bound to follow the principles laid down by the Hon'ble **WEB COPY**

Apex Court as extracted supra. As I have already given the finding that no reasons have been attributed by the 1st respondent in rejecting the appeal, the same is therefore, liable to be set aside.

14. However, considering the fact that the petitioner is due to superannuate and that he has also been further promoted as Deputy Superintendent of Police for which posting was given to him on 06.05.2022. I do not propose to remit the matter back to the 1st respondent. The reason why I am refraining from remitting the matter back to the 1st respondent is that the petitioner has been promoted as Deputy Superintendent of Police on 06.05.2022, very much later than his juniors, making him to report to his juniors, which itself in any service is punitive.

15. In view of the same, the punishment imposed by the 1st and 2nd respondent dated 27.02.2008 and 01.04.2008 are set aside and the Writ Petition is disposed of accordingly. However, there shall be no order as to



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costs. Consequently, connected miscellaneous petition is closed.

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Index: Yes/no

Speaking/non-speaking

gba

Note: Issue order copy on 01.11.2022

To

1. The Inspector General of Police
Economic Offences Wing I,
Headquarters
Admiralty Building,
Governement Estate,
Chennai 600 002.

2. The Additional Director General of Police
(Law and Order)
Santhome High Road,

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Mylapore, Chennai – 600 004.

3. The Joint Commissioner of Police,
South Zone, Greater Chennai City Police,
St. Thomas Mount, Chennai – 600 016.

K. KUMARESH BABU, J.

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