



W.P.No.2507 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED :21.06.2022

CORAM :

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

Writ Petition No.2507 of 2015

K.Kumaradoss

... Petitioner

-Vs-

1 The Principal Secretary to Government,
Home Department, Secretariat,
Fort St. George, Chennai-9.

2 The Director General of Police,
Mylapore, Chennai-4.

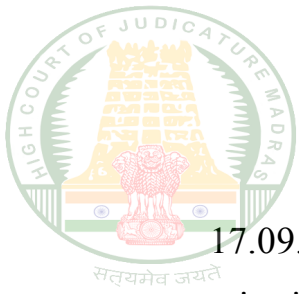
3 The Commissioner of Police,
Chennai Police, Vepery, Chennai-7.

4 The Dy. Commissioner of Police,
Ambattur District, Chennai.

5 The Dy. Commissioner of Police,
Madhavaram District, Chennai.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, Calling for the records in the connection with the charge memo P.R. No.53/H-1/2010 dated 09.04.2010 issued by the 4th Respondent herein and the order of punishment PR No.53/H1/2010 CSPO.No. 1923/2010 dated



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17.09.2010 passed by the 5th respondent herein and the order of rejection on appeal RC.No. HI/1212/ 61177/2010 Appeal No.59/HI 2010 dated 26.10.2010 passed by the 3rd Respondent herein and the order of rejection on review application G.O.(2D) No.446 dated 13.08.2013 passed by the 1st respondent herein and quash the same and consequently direct the respondents to promote the petitioner to the post of SSI from the date of 09.04.2010 with all service and terminal benefits.

For Petitioner : Dr.R.Sampathkumar

For Respondents : Mrs.S.Anitha
Special Government Pleader

ORDER

The writ petition is filed challenging the order of punishment of reduction in time scale of pay by three stages for three years and the period of reduction shall operate to postpone future increments for three years. The appellate authorities also have confirmed the order of punishment. Thus, the petitioner is constrained to move the present writ petition.

2. The writ petitioner was recruited as Gr-II Police Constable in the year 1977. He was promoted upto the level of Special Sub Inspector of Police and retired from service on attaining the age of superannuation, in



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the year 2010. The petitioner was allowed to retire from service. While

WEB COPY he was in service, a charge memo was issued with an allegation that the

writ petitioner was receiving mamool of Rs.50/- twice a week from one Mr.Ravi, S/o. Shanmugam, who was running a bunk shop nearby TASMACH Shop No.9033 at Keezhkondaiyar, Periyar Nagar.

3. The charge memo reveals that statement of misconduct and the list of documents relied upon as well as the list of witnesses examined were stated. An enquiry officer was appointed, who in turn conducted an enquiry with reference to the charges framed against the writ petitioner. The writ petitioner participated in the process of enquiry. The writ petitioner has cross examined the department witnesses and the enquiry officer submitted his enquiry report, holding that the charge against the writ petitioner was held proved. The disciplinary authority accepted the findings of the enquiry officer and imposed the punishment of reduction in time scale of pay by three stages for three years and the period of reduction shall operate to postpone future increments for three years. the petitioner preferred appeals and the said appeals were rejected.



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WEB COPY 4. The learned counsel for the petitioner mainly contended that the writ petitioner was having unblemished record of service for about 35 years and the charges are based on certain false complaint. There was no shop nearby the TASMACH shop as alleged by the complainant. the enquiry was not conducted properly and the documents relied on were not supplied. That apart, the punishment of reduction in time scale of pay by three stages was imposed during the fag end of retirement and thus, such a punishment cannot be implemented.

5. The learned counsel for the petitioner relied on the circular issued by the Director General of Police dated 27.05.2010, wherein it is stated that the disciplinary authorities shall ensure that the punishments proposed to be imposed can be implemented fully during the service period of the delinquent officer and avoid imposing unimplementable punishment in future.

6. The learned Special Government Pleader appearing on behalf of the respondents opposed the said contention by stating that the punishment imposed on the writ petitioner is reduction in time scale of



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pay by three stages. The said punishment was imposed when the writ petitioner was in service. Therefore, it is implementable and the monetary value equivalent to that of the reduction of time scale is to be recovered towards the punishment and the said circular is not applicable with reference to the facts and circumstances of the case on hand.

7. The learned Special Government Pleader made a submission that the charge against the writ petitioner is serious in nature and it is a corruption charge and the allegation is that the writ petitioner had received mamool twice in a week from a bunk shop owner nearby the TASMACH shop. The enquiry officer conducted a detailed enquiry and found that the charges against the writ petitioner are held proved. Based on the proved charge, the punishment was imposed and thus, there is no infirmity and consequently, the writ petition is liable to be rejected.

8. Considering the arguments, this Court has to examine whether the charge against the writ petitioner has been proved based on evidences. Perusal of the enquiry report reveals that the prosecution witnesses are examined and the writ petitioner cross examined the witnesses. The complainant who is the owner of the bunk shop, categorically deposed



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that he was paying regularly a sum of Rs.50/- twice a week to the beat constables of Muthadupudupettai Police Station. The writ petitioner Mr.Kumaradoss raised several questions against the complainant's bunk shop and that was recorded.

9. In view of the fact that the complainant was harassed by the writ petitioner who was a Head Constable, to pay a sum of Rs.100/- as mamool, the bunk shop owner Mr.Ravi filed a complaint before the Chennai Sub Urban Police Commissioner. However, the complainant has deposed before the enquiry officer that he is regularly paying Mamool to the beat constables and they were regularly collecting the same. Even in cross examination, the complainant has stated that regarding the 'Mamool', he has given a complaint to the Commissioner on 27.03.2010. The Prosecution Witness No.2, Thiru.Mani also deposed about the collection of Mamool by the police officials of the Muthadupudupettai Police Station. Even one Mr.Aldrin, Police Inspector also deposed. Considering the deposition of witnesses, both the departmental witnesses and the other witnesses, the enquiry officer arrived at a conclusion that the charge against the writ petitioner is proved. Perusal of the enquiry report reveals that a detailed enquiry was conducted by providing



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opportunity to the charged officials. Thus, there is no infirmity as such.

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10. The nature of the proved charges against the writ petitioner relates to receiving of Mamool by the police officials of the particular police station. Thus, the punishment imposed cannot be said to be disproportionate or excess. In fact, the authorities themselves have taken into consideration about the facts and circumstances and imposed the punishment of reduction in time scale of pay by three stages for three years and the reduction shall operate to postpone future increments for three years.

11. The nature of punishment imposed would also reveal that the police department has not taken the issue of receiving Mamool in a serious manner. It is corruption charges. Admittedly, no criminal case has been registered for receiving Mamool from the owner of a bunk shop. When the witnesses have deposed before the enquiry officer that the police constables are regularly receiving Mamool from the bunk shop owner, twice a week and the charges are established, the authorities have imposed the penalty of reduction in time scale of pay in three stages. The insensitiveness shown by the authorities regarding the corruption, is



apparent.

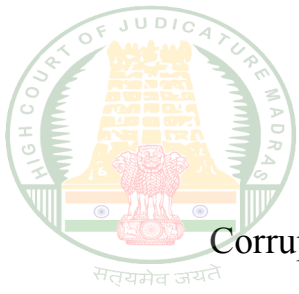
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12. The public servant is expected to maintain utmost integrity and honesty while discharging his/her public duties and responsibilities. There should not be any room or scope for such corruption allegations. Perusal of the entire findings of the enquiry officer in his report, it is clear that the allegation of receiving mamool by the police officials are established. However, the punishment imposed is for reduction of pay by three stages.

13. Corruption is a devil in the society. Corruption is an anti-developmental phenomena. Corruption is the blockage for the developmental activities of our great nation. Corruption causes greater injustice to the society at large, more specifically, to the poors and downtrodden. Large scale corrupt practices in various forms prevailing in public services are causing untold agony and common men are struggling even to get their rightful and legal benefits. It is painful to pen down that for the implementation of beneficial schemes and Government Orders, corrupt practices in various forms are demanded by the public servants and in some cases, by the higher officials and the responsible higher officials are absolutely insensitive in controlling the corrupt practices.



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Corrupt practices are not only demand and acceptance of money, but corrupt practices are prevailing in various forms.

14. It is the constitutional mandate that every Government of the day is expected to be efficient, people-friendly and hypersensitive in the matter of dealing with corrupt practices. Corruption eats the welfare of the society like termite. No doubt, Department of Vigilance and Anticorruption is functioning in the State. However the size of the department and the number of officials functioning are not in commensuration with the large scale corrupt practices prevailing in many number of departments. The department of Vigilance and Anticorruption is to be strengthened to a greater extent, so as to ensure periodical surprise inspections and raids are conducted to deal with the corrupt practices in public services. Adequate number of men and women of integrity and honesty must be engaged for this purpose. There must be full fledged coverage for the entire public administration to eradicate the corrupt practices. There should not be any scope for leniency or misplaced sympathy in dealing with the corruption cases. The constitutional Courts across the country have delivered many number of judgments regarding the procedures and the trials to be conducted in the



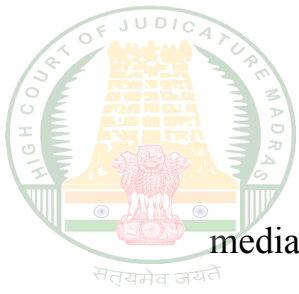
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criminal cases in a speedy manner. Even then, there is a slow down in completing the criminal trials in corruption cases and those areas are also to be taken care of by all concerned.

15. Decent amount of salary has been paid to the public servants. Salary to the public servants now~a~days are institutionally competitive in comparison with their counterparts in private sectors. Public servants are receiving the salary from the tax~payers- money. The responsibility and accountability is the constitutional mandate. Public servants are expected to perform their duties with utmost care and by maintaining absolute integrity and honesty. However, in reality, the state of affairs prevailing in our great nation is the worrying factor. People are frustrated with the large scale corrupt practices in public services.

16. This Court in umpteen number of judgments emphasised the necessity for creating sensitiveness in the matter of corrupt practices. There must be a drastic change in the attitude on the part of the competent Authorities and they are expected to work swiftly so as to minimise the corrupt practices currently and to eradicate in future. Debates after debates are conducted in many interesting subjects through



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medias and in public domain. However, negligible number of debates are being conducted regarding corruption in our great nation. How the corrupt practices are affecting the development of our great nation in a larger extent is to be portrayed in the public domain. The implications of corruption and its evil consequences are to be made available in the public domain. At the outset, creating sensitiveness are more important, which is also a constitutional principle for efficient and effective Public Administration. This Court is of the opinion that the awareness being created and action taken at present are insufficient, so as to cripple down the corrupt practices in public services. For a moment, dream a Public Administration free from corrupt practices. Such a dream itself would give an immense pleasure and happiness. Dreaming an ordinary citizen can enter into any Government Offices and Public Offices and get his works done in a legal and rightful manner without any difficulty, certainly, such an atmosphere would be a joyful event and the same would lead to fast and greater development of our great nation.



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17. The Government of the day is expected to strengthen the

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Anticorruption Wings and periodical and frequent surprise raids/inspections are to be conducted in public offices. Further, the assets and the liabilities of the department servants are to be periodically verified as the Service Rules require every public servant is bound to furnish the details of their assets and liabilities. When the Rule requires such an information to be provided to the Department, the same has not been maintained properly in many Departments by many Higher Authorities. The disproportionate wealth is to be periodically monitored. The genuineness and sanctity of the informations provided by the public servants are to be properly checked.

18. Urgent and stringent measures are warranted and appropriate instructions/guidelines are to be issued to all the Government Offices. The competent Authorities of the Government have choice to obtain suggestions and expert opinions in the field of Anticorruption and accordingly issue comprehensive instructions/directions/guidelines to deal with the corrupt practices in Public Departments. Announcing beneficial schemes alone are insufficient. The implementation of the beneficial schemes must reach the poors and downtrodden in a hustle-free manner.



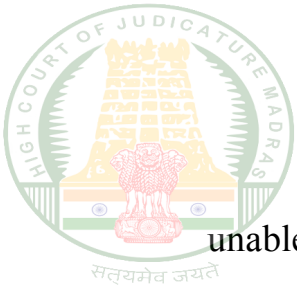
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Thus by introducing the welfare schemes, Government cannot attain success. The implementation of such beneficial schemes so as to take the scheme to the poorest of poor in this country would alone lead to success.

19. In view of the facts and circumstances, this Court do not find any infirmity or perversity with reference to the quantum of punishment imposed. The power of judicial review to be exercised under Article 226 of the Constitution of India is to ensure the processes through which a decision is taken by the competent authority in consonance with the statutes and rules in force, but not the decision itself.

20. Police Station officials receiving mamool is the greatest concern in the public domain. By receiving mamool, the police officials are allowing encroachments in footpath hawkers and allowing the traders to commit illegalities. That apart, even encroachments for running business are permitted by the police officials by receiving mamool.

21. At the outset, many illegalities and irregularities are being committed by traders, encroachers, hawkers etc., which all are causing greatest nuisance and inconvenience to the public at large. The public are



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unable to use the footpaths freely and further there is no control against these kinds of illegalities and the rights of the citizen are infringed.

22. Many offences are unnoticed or allowed at the behest of the Police Station officials as they have no moral courage to control these miscreants and offenders as they are receiving mamool one way or the other. Therefore, receiving of mamool, which is commonly noticed in public domain at large must be effectively controlled by the Government, more specifically, by the Principal Secretary to Government, Home Department and the Director General of Police.

23. It is not as if the higher officials are unaware of these offences. However, there is little attempt to minimise such crimes being committed. For instance, receiving mamool, which is a corrupt activity, no criminal case has been registered against such police officials under the Prevention of Corruption Act ordinarily. Mostly the departmental actions alone are initiated and on some occasions, certain minor punishments are imposed.

24. Therefore, in all such cases where receipt of mamool is traced



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out, criminal cases are to be registered against the police officials, who

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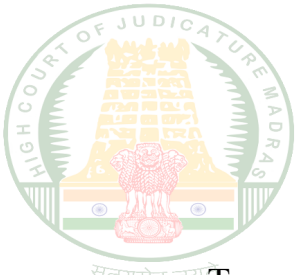
have received the mamool. Effective monitoring of these offences are imminent and warranted. Thus, the respondents 1 and 2 are bound to initiate all steps to ensure that receiving mamool by the police officials, more specifically, in Jurisdictional Police Stations, are to be effectively controlled and offences in this regard are to be dealt with in accordance with law without showing any leniency or misplaced sympathy.

25. In the present case, when the punishment cannot be said to be disproportionate or otherwise and the proved charges against the writ petitioner are corruption charges and this Court do not find any perversity and consequently, the Writ Petition fails and stands dismissed. No Costs.

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Index: Yes/No
Speaking/Non-speaking order.
ars/Svn

S.M.SUBRAMANIAM, J.



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