



W.P.(MD).No.19529 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 14.09.2022

DELIVERED ON : 27.09.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.19529 of 2022

and

W.M.P.(MD).Nos.14256 and 14257 of 2022

R.Srimurugan

... Petitioner

Vs

- 1.The Inspector General of Police,
South Zone,
77, 4th Street, Reserve Line,
Race Course Colony,
Madurai – 2.
- 2.The Commissioner of Police,
Madurai City,
Madurai.
- 3.The Deputy Commissioner of Police,
Head Quarters, Madurai City,
Alagar Kovil Road,
Madurai.
- 4.The Assistant Commissioner of Police,
Avaniyapuram Range,
Madurai City,
Madurai.



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5.The Inspector of Police,
V-2-Avaniyapuram (Law and Order) Police Station,
Madurai City,
Madurai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the entire records in connection with the impugned order passed the first respondent vide proceedings Ref. No. C.No.A1 / 4159 / 2022, Z.O.No: 202/2022 dated 04.08.2022 and consequential order passed by the second respondent vide proceeding Ref. No: C.N: 244 / 30773 / A2 / 2022, CPO No: 1251/2022 dated 05.08.2022 and quash the same.

For Petitioner : Mr.Niranjan S.Kumar

For Respondents : Mr.Veera Kathiravan,
Additional Advocate General,
Assisted by,
Mrs.D.Farjana Ghoushia,
Special Government Pleader.

ORDER

This Writ Petition has been filed to quash the impugned order passed by the first respondent vide proceedings, dated 04.08.2022 and consequential order passed by the second respondent vide proceedings, dated 05.08.2022.



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2. The brief facts as stated in the affidavit are that the petitioner joined the Police Department as Grade-II Constable in the year 2003. The petitioner met with a serious accident in the year 2011 and sustained head injury and the petitioner was admitted in hospital unconscious state, hence the petitioner was granted medical leave. The petitioner was allowed to join duty after he was discharged from the Hospital. The contention of the petitioner is that frequently, the petitioner gets giddiness and unbearable headache like that of migraine. Therefore, on a few occasions, the petitioner has taken medical leave without following the proper protocol. Therefore, several proceedings were initiated against the petitioner and the petitioner suffered series punishments. Even though the petitioner had medical records to support the case, the petitioner did not prefer any statutory appeal as against the punishment order. However, the petitioner challenged all the 13 punishments by way of filing Writ Petition before this Court. Finally, the Division Bench of this Court heard all the cases and pleased to confirm the punishments, but had set aside all the Government Orders passed by the Additional Chief Secretary to Government, Home (Police VI) Department, Chennai and directed him to pass a lesser punishment cumulatively. In spite of the time limit granted to pass such orders, the respondents have not passed the order. Hence, the petitioner preferred Contempt Petitions in Cont.P.(MD)Nos.



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1731 to 1743 of 2021. Thereafter the Government has passed a Government Order, wherein it is stated that if any proceedings are initiated under Rule 39(a), it would be considered by the Government to quash the punishment or either impose lesser punishment. However, the scheme was denied to the petitioner and 13 new Government Orders were passed, thereby, reducing the impact of the punishments. Recording the submissions, the said Contempt Petitions were closed granting liberty to the petitioner to challenge the new Government Order. Challenging the same, the petitioner had filed writ petitions in W.P.(MD)Nos. 14753 to 14764 of 2022 and the same are pending.

3. The contention of the petitioner is that the petitioner is instrumental to prepare and enforce 54 Detention Orders under the Tamil Nadu 14 Act (Goondas) and he has dedicatedly discharged his duties. This was taken into consideration by the Hon'ble Division Bench in its order. The petitioner further contended that he is an honest police person and at no point of time, he had yielded to any pressure either by the superior or by any other person and he has discharged his duties in accordance to his conscious and he is not amenable even if he faces harassment at various levels. The petitioner was subjected to at least 4 transfers internally within a short span of 18 months and the same is extracted hereunder:



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S.No.	Station	Date of Relieving	Station	Date of Joining
1.	D-1, Tallakulam (L&O), P.S.	16.03.2020	C-5 Karimedu, (L&O), P.S	17.03.2020
2.	C-5 Karimedu, (L&O), P.S	06.08.2020	C-3 S.S. Colony, (L&O) P.S.	06.08.2020
3.	C-3 S.S. Colony, (L&O) P.S.	22.02.2021	V-2 Avaniyapuram, (L&O) P.S.	23.02.2021

4. When the petitioner was working in C-3 S.S.Colony Police Station, the petitioner was transferred to V-2 Avaniyapuram Police Station and the petitioner has to spend Rs.200 towards petrol in every alternative days to reach his work place. The petitioner has managed all the difficulties. But, at one point of time, he could not spend for fuel because of the paltry sum he had received as salary. Hence, the petitioner submitted a representation seeking transfer back to S.S.Colony Police Station or in the alternative to C-5 Karimedu Police Station. However, the same was refused stating that the tenure of transfer is not yet over. But, now through the impugned order, the petitioner is transferred to Tuticorin District which is almost 150 Kms away from Madurai. Even though the transfer is incidental to service, the present transfer is passed with a motive. The petitioner was directed to discharge his duties as a Writer and the petitioner has rendered for the past 1 ½ years in the said service and not even a single complaint was levelled against the petitioner. Especially, there is no allegation against the



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petitioner that he had received a single pie from the public. The contention of the petitioner is that some of the few corrupt colleagues expected the petitioner to dance to their tunes and rhyme of corrupt officials. The petitioner's batchmates are receiving Rs.52,000/- and even the Grade-II Police Constable is receiving a salary of Rs.24,500/-, but the petitioner takes home the salary of Rs.9,317/- and he has two children studying 9th and 4th Standard respectively. The petitioner originally filed 13 Writ Petitions before this Court challenging the punishments imposed on him which were ultimately disposed of by the Hon'ble Division Bench by common order dated 24.03.2021. Since the order was not complied with, the petitioner was forced to file 13 Contempt Petitions and liberty is granted by this Court as a remedial measure. The petitioner has filed 12 Writ Petitions and the same are pending as on date. The petitioner is being targeted by the officials, because of the pendency of the Writ Petitions. The present impugned order passed by the first respondent in his proceedings, dated 04.08.2022 and the consequential order passed by the second respondent dated 05.08.2022 have not been served on the petitioner. The transfer from Madurai City to Tuticorin District under the guise of Administrative Transfer, which is punitive in nature. The petitioner has also relied on the judgment rendered in the case of *Somesh Tiwari Vs Union of India and others reported in 2009 (2) SCC 592*. Since the impugned order has not been passed indicating any factor germane for passing an order of transfer,



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portraying as administrative reasons, but the reason is otherwise. In the case of ***S.Sevugan Vs Chief Education Officer, Virudhunagar District and another reported in 2006 (2) CTC 468***, wherein, this Court has held that it is seen from the impugned order of transfer that it is passed in administrative grounds, but it appears that order was passed by way of punishment and based on the complaint against the conduct of the petitioner. Hence, the petitioner prayed to allow this Writ Petition.

5. The respondents have filed a counter stating that the petitioner is continuously showing his habitual and vindictive attitude towards his immediate superior officials and showed scant respect to his superior officers. The counter has stated the allegations and the punishments imposed on the petitioner through a tabular column which is extracted hereunder:

SI. No.	PR.No.	Delinquency	Punishment awarded
1.	67/2008 Under rule 3(a) The Nilgiris District	In-disciplinary conduct and gross neglect of duty by availing medical leave without obtaining leave passport.	Postponement of increment for one year without cumulative effect by DSP, Rural, the Nilgiris dated 25.09.2008
2.	27/2010 u/r 3(a)-Madurai City	Dereliction of security duty while posted at Circuit House 03.01.2010 to 02.02 2010.	Awarded the punishment of Black Mark by Commissioner of Police, Madurai City on 05.05.2010
3.	90/2010 u/r 3(a) Madurai City	Abstaining from duty on 15.6.2010 at check post, Melur Road and obtaining ML	Imposed with the punishment of deferred black mark and later confirmed as Black Mark dated



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		from a doctor at Usilampatti and extended for 25 days upto 29.07.2010 without information.	25.10.2010 by the Deputy Commr of Police, Armed Reserve, Madurai City
4.	136/2010 u/r 3(a) Madurai City	Not attending duty on 08.09.2010 at National Highway Vehicle I- obtained ML for 30 days without information	Punishment of 'Deferred Black Mark' for six months by Asst.Commr.of Police, AR and since he was dealt with on two charges on PR 118/11 and 101/2011 u/r 3(a), the punishment of deferred black mark was confirmed as black mark by Deputy Commr of Police, AR, Madurai City dated 03.03.2012
5.	58/2011 u/r 3(a) Madurai City	When directed to report at AR from check post, Theni Road on 02.12.2010, absconding and obtaining medical leave for 30 days at Batalagundu Did not return back to duty on 01.01.2011, absconding for 58 days till 27.02.2011, went on ML	Punishment of postponement of increment for two years which shall not operate to postpone future increments by DC (L&O) i/e AR/Madurai city. No appeal was preferred. His mercy petition was rejected by the DGP/CNI dated 30.01.2017. His memorial petition was rejected by the Government on 08.08.2019. In compliance with the orders of this Hon'ble Court in WA (MD) No. 620/2020 dated 24.03.2021, the above punishment was modified into "postponement of increment for one year which shall not operate to postpone his future increments" vide G.O. (2D) No. 90, Home (Pol. VI) Dept. dt. 18.03.2022.
6.	101/2011 u/r 3(b) Madurai City	On 22.07.2011 while on duty at Kochadai Road check post at 21.25 hours, found drunken by Inspector, SS Colony Police Station and he was arrested in Crime No. 1322/2011 u/s 75 (ii) (a) TN MCP Act and hence the above PR was raised	Punishment of postponement of increment for one year with cumulative effect by DC/AR by on 17.02.2012. No appeal was preferred. His mercy petition was rejected by DGP so as the memorial petition was rejected by Government.



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			<p>In compliance with the orders of this Hon'ble Court in WA (MD) No. 620/2020 dated 24.3.21. the above punishment was modified into "postponement of increment for one year which shall not operate to postpone his future increments vide G.O (2D) No.91 Home (Pol VI) Dept dated 18.03.2022.</p>
7.	118/2011 u/r 3(b) Madurai City	Did not attend duty on 01.06.2011 without permission and obtained leave from Usilampatti Govt Doctor for 15 days from 01.06.2011, did not return and applied for 21 days leave and hence treated as absconding.	<p>Imposed with punishment of postponement of next increment for one year with cumulative effect by the DC/ AR on 17.03.2012. He did not prefer appeal His mercy petition was rejected by DGP and the memorial was rejected by the Government.</p> <p>In compliance with the orders of this Hon'ble Court in WA (MD) No. 620/2020 dated 24.03.2021, the above punishment was modified into "postponement of increment for one year which shall not operate to postpone his future increments" vide G.O. (2D) No.94 Home (Pol. VI) Dept. dated 18.03.2022.</p>
8.	09/2012 u/r 3(b) Madurai City.	On 22.07.2011 found in drunken mood while on duty - arrested in SS Colony Cr.No. 1322/2011 u/s 75 (ii) TN MCP Act - placed under suspension from 22.7.2011 and on 20.9.2011, in a drunken mood and acting in an unbecoming conduct, he was arrested by Sub Inspector, Thideer Nagar PS, sent for medical check up and having confirmed into the drunken mood, case under section 2352/2011 u/s 75(ii) (A)	<p>Punishment of postponement of increment for 2 years without cumulative effect by DC/AR on 27.5.2013. No appeal was preferred His mercy petition was rejected by DGP, so as the memorial petition rejected by the Govt. In compliance with the orders. of this Hon'ble Court in WA (MD) No. 620/2020 dated 24.3.2021, the above punishment Was modified "postponement of increment for one year which shall not operate to postpone his future</p>



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		TN MCP Act was registered and PR raised.	increments" vide G.O. (2D) No. 92, Home (Pol. VI) Dept. dated 18.03.2022.
9.	14/2013 u/r 3(a) Madurai City	While on duty at Kalavasal, did not appear for duty on 02.11.2012, abscond and obtained Medical Certificate from MO. Usilampatti for 30 days and extended leave for 5 more days.	<p>Imposed with punishment of postponement of increment for two years without cumulative effect by the DC AR on 27.05.2013. He did not prefer appeal. His mercy petition was rejected by DGP and the memorial rejected by Government.</p> <p>In compliance with the orders of this Hon'ble Court in WA (MD) No. 620/2020 dt 24.3.2021, the above punishment was modified into "postponement of increment for one year which shall not operate to postpone his future increments" vide G.O. (2D) No. 100, Home (Pol. VI) Dept. dated 23.03.2022.</p>
10.	51/2013 u/r 3(a) Madurai City	While on vehicle check up duty at Jaihindpuram, absented himself from 2200 hours on 20.02.2013, obtained medical leave from a Doctor at Usilampatti for 15 days and hence the PR.	<p>Punishment of postponement of increment for two years without cumulative effect by DC/AR on 27.9.2013. No appeal was preferred. His mercy petition was rejected by DGP/CNI, so as the memorial petition rejected by the Government.</p> <p>In compliance with the orders of this Hon'ble Court in WA (MD) No. 620/2020 dated 24.03.21, the above punishment was modified into "postponement of increment for one year which shall not operate to postpone his future increments" vide GO. (2D) No. 107 Home (Pol. VI) Dept. dated 23.03.2022.</p>
11.	81/2013 u/r 3 (a) Madurai City	Reprehensible conduct in absconding from the afternoon	Imposed with punishment of postponement of increment for



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		of 01.06.2013 while on vehicle check up duty at SS Colony and obtained medical Medical leave Officer at Usilampatti for 15 days leave and reported for duty on getting the fitness certificate on 16.06.2013.	two years without cumulative effect by the DC L&O i/c AR on 23.09.2013. He did not prefer appeal. His mercy petition was rejected by at DGP and the memorial was rejected by Government. In compliance with the orders of this Hon'ble Court in WA (MD) No. 620/2020 dt 24.03.2021, the above punishment was modified into "postponement of increment for one year which shall not operate to postpone his future increments" vide G.O. (2D) No. 105, Home (Pol. VI) Dept. dated 23.03.2022.
12.	78/2014 u/r 3(a) Madurai City.	Reprehensible conduct in not presenting for road bandobust duty, absconding and obtained medical certificate from MO at Usilampatti for ML for 10 days from 08.12.2013 to 17th, and extended leave for 5 days and then for 17 days upto 09.01.2014, reported for duty on getting fitness certificate only on 09.01.2014 and thus dereliction from duty.	Punishment of postponement of increment for 3 years without cumulative effect by DC/HQ i/c AR on 11.9.2014. No appeal was preferred. His mercy petition was rejected by DGP/CNI so as the memorial petition rejected by Government. In compliance with the orders of this Hon'ble Court in WA (MD) No. 620/2020 dated 24.3.2021, the above punishment was modified into "postponement of increment for one year which shall not operate to postpone his future increments" vide GO. (2D) No. 104 Home (Pol VI) Dept dated 23.03.2022.
13.	91/2014 u/r 3(a) Madurai City	Posted for law and order duty at B3 Teppakulam PS. But did not turn up for duty on 11.01.2014 at 22.00 absconded and obtained medical certificate from MO at Usilampatti for 20 days leave from 12.01.2014,	Imposed with a punishment of postponement of next increment for 3 years without cumulative effect by the DC HQ (i/c) AR on 24.11.2012. On his appeal, the punishment was modified into that of 'postponement of next



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		extended the leave for 7 days and reported for duty on 08.02.2014 and raised PR for the above reprehensible conduct.	increment for 2 years which shall not operate to postpone his future increment' by the DGP/CNI on 24.10.17 and the memorial was rejected by Government. In compliance with the orders of this Hon'ble Court in WA (MD) No. 620/2020 dt 24.3.2021, the above punishment was modified into "postponement of increment for one year which shall not operate to postpone his future increments" vide G.O. (2D) No. 106 Home (Pol. VI) Dept. dated 23.03.2022.
14.	112/2014 u/r 3(a) Madurai City	On 11.06.2014 the delinquent without turning for duty @ 6 PM at Kalavasal QRT VI duty, absconded went and was obtained medical certificate for getting leave from Govt. Doctor from Usilampati and obtained. leave for 20 days from 11.06.2014, but did not return back for duty on expiry, but extended leave for further period of 20 days and then for 7 days and thus was absent or 47 days and hence for the above reprehensible conduct PR raised.	Punishment of postponement of increment for 3 years without cumulative effect by DC, L&O i/c AR on 24.11.2014. No appeal was preferred. His mercy petition was rejected by petition DGP/CNI so as the memorial petition rejected by Government. In compliance with the orders of this Hon'ble Court in WA (MD) No. 620/2020 dated 24.03.21, the above punishment was modified into "postponement of increment for one year which shall not operate to postpone his future increments vide GO. (2D) No. 103, Home (Pol. VI) Dept dated 23.03 2022.
15.	107/2014 u/r 3(b) Madurai City	The delinquent while on duty at Meenakshi Temple, did not turn up for duty on 04.04.14 at 21.00 hrs. and absconded. Obtained medical certificate for getting leave from Govt. Doctor from Usilampatti and obtained leave for 19 days from 03.04.14, but did not return back for duty on	Imposed the punishment of postponement of increment for one year with cumulative effect by DC/AR on 03.10.2015. No appeal was preferred. His mercy petition was rejected by DGP/CNI so as the memorial petition rejected by Government.



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		expiry, but extended leave for further period of 10 days and then for 5 days and then 7 days then 10 days, then 5 days thus was absent for 56 days and hence for the above reprehensible conduct PR raised.	In compliance with the orders of this Hon'ble Court in W.A. (MD).No.620/2020 dated 24.03.2021, the above punishment was modified into "postponement of increment for one year which shall not operate to postpone his future increments" vide G.O.(2D) No.89, Home (Pol.VI) Dept., dated 18.03.2022.
16.	46/2015 u/r3(b) Madurai City	The delinquent did not appear roll call on 04.01.2015 absented himself for 50 days.	<p>Punishment of postponement of increment for one year with cumulative effect by DC/AR on 23.10.2015. His appeal was rejected by the COP/MC on 05.05.16. His mercy petition was rejected by DGP/CNI so as the memorial petition rejected by Government.</p> <p>In compliance with the orders of this Hon'ble Court in W.A. (MD).No.620/2020 dated 24.03.2021, the above punishment was modified into "postponement of increment for one year which shall not operate to postpone his future increments" vide G.O.(2D) No.93 Home (Pol.VI) Dept. dt. 18.03.2022.</p>
17.	113/2015 u/r 3(a) Madurai City	On 19.05.2015 the delinquent without turning for patrol duty at 14.00 hours at Avaniyapuram, absented himself on his own accord and obtained medical certificate from Medical Officer, Usilampatti Government Hospital for 15 days from 19.05.2015 to 02.06.2015, thereafter extended the leave for 5 days, thus unauthorisedly absented himself and hence for the above reprehensible conduct PR	<p>Imposed with a punishment of black mark by the DC/AR on 23.12.2015. No appeal was preferred. His mercy petition was rejected by DGP/CNI so as the memorial petition rejected by the Government.</p> <p>In compliance with the orders of this Hon'ble Court in W.A. (MD).No.620/2020 and W.P. (MD).Nos.23146 to 23148, 22151 to 22153, 22177, 22178, 22181 to 22183, 22185 of 2009, the above</p>



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	raised.	punishment was set aside by the Government in G.O.(2D).No.108, Home (Pol.VI) Dept. dated 23.03.2022.
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6. Thus, the petitioner herein is acting in such an unbecoming manner unsuitable for the disciplined force, and he abandoned his post by absenting himself continuously from the year 2008. The petitioner with impunity adopted a uniform approach of deserting his post, then approached the Medical Officer at Usilampatti, obtained leave under Medical Certificate for less number of days with a view to avoid being sent to Medical Board. The petitioner without preferring the statutory appeal, approached this Court and obtained a semblance of relief and continued his tired against the higher officials in the Department. As far as the earlier transfer is concerned, the Inspector of Police, V-2 Avaniyapuram Police Station submitted a Special report indicating that the petitioner has a tendency to undermine the Inspectors of Police in various Police Stations served in Madurai City. His divisive approach and attitude had created a gulf amongst other Policemen. Such attitude could not be tolerated on public interest. While serving as Writer in Avaniyapuram Police Station, he garnered support from other Police persons by speaking ill of higher officials besides challenging their authority. He had access to all current papers sent to the Police Station for enquiry and by taking advantage, he used to make disparaging comments. He is



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also using RTI as a tool to get things done for him. While serving at Thallakulam Police Station, he had indifferent attitude with the Station House Officer, Malaichamy and sent a false report against him and hence, he was transferred from Thallakulam Police Station to S.S.Colony Police Station and there he developed indifference with Mrs.Flower Sheela, who was the Station House Officer and sent several false complaints against her and hence, he was transferred to Avaniyapuram Police Station. The petitioner is known to extol his escapades against the senior officers causing rift in the Police hierarchy and if his attitude is allowed to go unchecked, then the morale of the law enforcing agency would go down prejudicing the law enforcement work in the Police Constabulary. As far as the contention that his batchmates are receiving more salary, the batchmates are now senior Head Constables, whereas he had to serve as Police Constable and he carried the home salary of Rs.9,317/- only, whereas, the petitioner is getting gross monthly salary of Rs.36,775/- with statutory deductions of Rs.4,690/- and non statutory deductions of Rs.22,769/-. The petitioner was never given upgradation, as he had earned series of punishments. Even in this small issue, the petitioner herein suppressed the facts regarding the promotion as well as the salary. The petitioner apart from other leave, so far he had taken 329 days of leave without pay and availed 258 days Medical Leave. The inputs gathered have also confirmed the wrong doings of the petitioner herein and



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hence, the detailed report was sent to the first respondent who on arriving at the satisfaction that it is expediate to transfer the petitioner out of Madurai City to curb his tendencies, the impugned order of transfer to Tuticorin District was issued. When the petitioner came to know about the transfer order, dated 05.08.2022, submitted an application for medical leave from 05.08.2022 to 03.09.2022. Hence, the order of transfer could not be served on the petitioner. However, a copy of the order sent for service was pasted in a conspicuous location in front of his house in the presence of the Village Administrative Officer concerned on 24.08.2022. Thereafter, the petitioner has extended medical leave for another 25 days from 04.09.2022. In fact, the petitioner was not singled out and issued with transfer within the District as well to other Districts. In fact, 12 Policemen were sent on District transfers on administrative grounds in the last 10 months. In fact, the earlier proceedings of the petitioner was on administrative reasons. Hence, the averment that the petitioner was frequently transferred is not proved. The petitioner herein coming to know about the order of transfer issued by the first respondent dated 04.08.2022, contrived to proceed on medical leave purportedly. The employee holding a transferable post cannot claim any vested right to work at a particular place. The petitioner continues to misbehave and not mend himself, and thus, he was transferred on administrative grounds in order to maintain absolute integrity and discipline of the force and there is no malafide



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intention or vengeance as contended by the petitioner. The original order of transfer was countersigned and forwarded only by the Deputy Commissioner of Police, Traffic in-charge Headquarters, Madurai City, dated 05.08.2022, whereas, the copy of transfer orders submitted by the petitioner before this Court is forged and concocted documents shown as signed by the Deputy Commissioner of Police, Headquarters, Madurai City, whose signature was forged in the transfer order. The Deputy Commissioner of Police was on Other Duty at Chess Olympiad bandobust between 28.07.2022 and 12.08.2022. Hence, the petitioner filed a fabricated document before this Court and misled for getting orders in his favour. In a disciplined force, such unbecoming conduct cannot be tolerated and any such tolerance would give a wrong signal to others. Hence, the petitioner herein is not entitled for the discretionary relief. Therefore, the respondents prayed to dismiss the Writ Petition.

7. The petitioner had filed rejoinder to the counter along with additional typed set of papers wherein, he has explained that he received the impugned order which was enclosed in the typed set in a Whatsapp group maintained by Avaniyapuram Police Station and Range group. The petitioner, by downloading the said order, has challenged the same in the present Writ Petition. The said order was posted by one Vignesh vide his Mobile No:8012254422, exactly on



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08.08.2022 at about 3.46 p.m. After filing this Writ Petition and after obtaining copies from the Hon'ble Court, the respondents by an afterthought, have levelled these allegations. The post was also deleted within a few minutes. The screenshot of the same has been taken and enclosed as evidence along with the rejoinder. Therefore, the petitioner strongly objected to the contention that the impugned order is a forged and concocted document. The petitioner has also submitted various other factors in the rejoinder.

8. Heard Mr.Niranjan S.Kumar, the learned counsel for the petitioner and Mr.Veera Kathiravan, learned Additional Government General assisted by Mrs.D.Farjana Ghoushia, learned Special Government Pleader appearing for the respondents and perused the records.

9. The petitioner had joined the service in the year 2003 and met with an accident in the year 2011. Thereafter the petitioner had taken frequent medical leave and from 2019 onwards had faced series of disciplinary proceedings. Then the petitioner was transferred as follows:

- i. 10.03.2020 – Tallakulam Police Station to Karimedu Police Station
- ii. 27.07.2020 – from Karimedu Police Station to S.S. Colony Police Station



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iii. 23.02.2021 – S.S. Colony Police Station to Avaniyapuram Police Station

iv. 05.08.2022 – from Avaniyapuram Police Station to Tuticorin District (under challenge)

The contention of the petitioner is that the present impugned transfer order is punitive in nature. Since the petitioner has been continuously absent from duties on various occasions due to illness, the petitioner was imposed with 13 punishments which were challenged in an earlier round of litigation before this Court. If the punishments are imposed on the petitioner, the petitioner ought to undergo the punishment until his retirement / beyond his retirement. Therefore, the petitioner, had challenged all those punishment orders before this Court and the same were dismissed. On appeal, the Hon'ble Division Bench had directed the respondents to club all the punishments so that the petitioner can undergo the punishment cumulatively. Since the respondents have not passed any orders, the petitioner preferred Contempt Petition and when the petition came up for hearing the respondents have submitted compliance report, wherein, the punishments were clubbed altogether. Even then, the petitioner ought to undergo the punishment until 2025. Moreover, the punishment is affecting the petitioner's promotion. His batchmates are receiving salary of Rs.59,000/-. Since the petitioner is retained in the same post, he is receiving the less amount. Thereafter



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based on the punishment, salary was further deducted to the tune of Rs.22,000/- and the petitioner's carrying home salary is only Rs.9,000/-. In such circumstances, the petitioner is transferred from Madurai City to Tuticorin City. The contention of the petitioner is that he would not be in a position to sustain himself and to sustain his family and further submitted in an earlier occasion when he was serving in Avaniyapuram Police Station, he would spend Rs.200/- for fuel itself, which the petitioner could not sustain. In such circumstances the transfer to Tuticorin will make the petitioner further vulnerable. Therefore, the petitioner prays that the impugned transfer order ought to be quashed.

10. However, the respondents denied strongly stating that the transfer is incidental to service, especially in uniform service, which is a disciplinary service and the petitioner ought to maintain some discipline and the petitioner has no right to challenge the transfer order. Whenever some indiscipline is found, the employer is at liberty and has right to transfer the erring official in order to maintain better and peaceful work place for the other employees to work.

11. The respondents had filed a counter affidavit wherein it is stated that "the inputs gathered have also confirmed the wrong doings of the petitioner herein and hence, the detailed report was sent to the first respondent who on



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arriving at the satisfaction that it is expediate to transfer the petitioner out of Madurai City to curb his tendencies, the impugned order of transfer to Tuticorin District was issued”. Therefore, the respondents were directed to produce the file along with such inputs and the report which had prompted the respondents to take the decision of transfer. The respondents have produced the file and on perusing the file this Court is of the considered opinion that the report and inputs have been already narrated in the counter and therefore the counter affidavit would be taken for consideration.

12. The allegation against the petitioner as stated in the counter affidavit of the respondents is as under:

“While serving at Thallakulam Police Station, he had indifferent attitude with the Station House Officer, Malaichamy and sent a false report against him and hence, he was transferred from Thallakulam Police Station to S.S.Colony Police Station and there he developed indifference with Mrs.Flower Sheela, who was the Station House Officer and sent several false complaints against her and hence, he was transferred to Avaniyapuram Police Station.”

It is the case of the respondents that the petitioner was behaving indifferent way at Thallakulam Police Station with the Station House Officer namely Malaichamy and for that only he was transferred from Thallakulam to S.S. Colony. In the S.S.Colony Police Station the petitioner developed



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indifference with the Station House Officer namely Mrs. Flower Sheela and sent several complaints against her and for that only the petitioner was transferred to Avaniyapuram Police Station. Now the claim of the respondents that the Inspector of Police, Avaniyapuram Police Station has submitted a report against the petitioner that he had acted indifferently against the Station House Officer at Thallakulam and S.S. Colony and hence the petitioner was transferred from Madurai District to Tuticorin District. This Court is not able to appreciate the reasons, since the Inspector of Police, Avaniyapuram Police Station has submitted a report that had happened in Thallakulam and S.S. Colony Police Stations, for which already the respondents have transferred from that stations. Therefore the allegation that for behaving in indifferent way in Thallakulam Police Station and S.S. Colony by obtaining the report from Avaniyapuram Police Station which is only a proxy report.

13. The second allegation by the Inspector of Police, Avaniyapuram Police Station as against the petitioner as stated in the counter affidavit is that,

“The petitioner has a tendency to undermine the Inspectors of Police in various Police Stations served in Madurai City. His divisive approach and attitude had created a gulf amongst other Policemen. Such attitude could not be tolerated on public interest. While serving as Writer in Avaniyapuram Police Station, he garnered support from other Police persons by speaking ill of higher officials besides challenging their authority. He had access



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to all current papers sent to the Police Station for enquiry and by taking advantage, he used to make disparaging comments. He is also using RTI as a tool to get things done for him.”

On perusing this it is seen that the allegations are only bald and not specific allegations. Therefore the reasons stated in the report and the counter affidavit is absolutely vague and bald, hence this Court is of the considered opinion that the petitioner is in advantageous position.

14. The next allegation is that the petitioner has forged the transfer order and the respondents relied on the signature affixed in the transfer orders. However, the petitioner submitted that there is a whatsapp group for “Avaniyapuram Police Station and Range Group” and the transfer order was posted by one Mr. Vignesh vide his Mobile No. 8012254422 exactly at about 3.46 pm on 08.08.2022. This Court is of the considered opinion that the clarification submitted by the petitioner is acceptable and hence there is no forgery as alleged by the respondents.

15. The Learned Counsel for the petitioner submitted that since he is serving as Writer, he is directed by the higher officials to write false complaints.

At times the petitioner is directed to register the complaint against the



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complainant and not against the accused, to delete the allegations if the complaint is against any police officials etc., which is against his conscious. The petitioner further submitted that he is not in a position to sustain his family with his meager salary of Rs.9,317/- in Madurai itself and if he is transferred to Tuticorin, he cannot sustain himself at Tuticorin. At the time of hearing, the Learned Counsel for the petitioner submitted that the petitioner is willing to serve as a Traffic Constable. When the learned Additional Advocate General was directed to take instructions whether the petitioner can be posted as Traffic Constable, the learned Additional Advocate General submitted that the allegations against the petitioner are too serious. Moreover, he being in uniform service, cannot chose any post or place as he wishes.

16. The petitioner is in Uniform Service and the transfer is incidental to Government service. But the present transfer order has traces of punitiveness as stated supra. Moreover, the petitioner is already undergoing punishment and receiving meager salary. Even for the criminal act, the punishment is based on the reformatory theory. Therefore, by invoking the principles of Karma this Court is inclined to grant relief to the petitioner. In the principles of Karma the “Sanchita Karma” (entire karma) is apportioned as “Prarabdha Karma” (portion of the karma) and punishment is imposed to undergo only for the “Prarabdha



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Karma” (portion of the karma). In the present case, the petitioner is undergoing several punishments and transfers to a distance place would be adding to the misery by way of financial implication.

17. Therefore, this Court is of the considered opinion that if the petitioner is transferred as traffic police, that would meet the ends of justice. Hence this Court is directing the respondents to post the petitioner as Traffic Police within Madurai District.

18. Having granting the relief to the petitioner, it is advised that the petitioner shall continue his police duty alone without indulging in RTI petitions and other activities. With the above direction, this Writ Petition is allowed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

27.09.2022

Index : Yes / No

Internet : Yes

Nsr



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To

- 1.The Inspector General of Police,
South Zone,
77, 4th Street, Reserve Line,
Race Course Colony,
Madurai – 2.
- 2.The Commissioner of Police,
Madurai City,
Madurai.
- 3.The Deputy Commissioner of Police,
Head Quarters, Madurai City,
Alagar Kovil Road,
Madurai.
- 4.The Assistant Commissioner of Police,
Avaniyapuram Range,
Madurai City,
Madurai.
- 5.The Inspector of Police,
V-2-Avaniyapuram (Law and Order) Police Station,
Madurai City,
Madurai.



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VERDICTUM.IN



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S.SRIMATHY, J

Nsr

Pre-delivery Order made in
W.P.(MD).No.19529 of 2022

27.09.2022