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**(2014) 06 MAD CK 0235**

**In the Madras High Court**

**Case No : W.P. Nos. 10917 and 2 and 3 of 2014**

G. Ravichandran

APPELLANT

Vs

The Joint Commissioner of Police

RESPONDENT

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**Date of Decision : 13-06-2014**

**Acts Referred:**

**Citation : (2014) 06 MAD CK 0235**

**Hon'ble Judges : S. Nagamuthu, J**

**Bench : Single Bench**

**Final Decision : Disposed Off**

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## **Judgement**

S. Nagamuthu, J.—The petitioner is an Inspector of Police, working in Chennai city. A charge memorandum has been issued to him by the Deputy Commissioner of Police, Traffic, Chennai East District, by his proceedings in Tha. Ko. No. 125/Po. Va. Thapi/13 dated 10.12.2013 under Rule 3(b) of the Tamil Nadu Police Subordinate Service (Discipline and Appeal) Rules. There were as many as four charges. The petitioner denied the charges. The fourth respondent was appointed as enquiry officer to hold enquiry into the charges. On service of notice by the enquiry officer, the petitioner appeared for enquiry on 27.03.2014. On that date, the petitioner made a request for adjournment after submitting his explanation. That was granted and the enquiry was postponed to 07.04.2014. On 07.04.2014, the petitioner appeared. But he gave a letter seeking adjournment stating that he needed to have the assistance of retired officer during enquiry. But no order was passed on the said request. According to the petitioner, thereafter, the petitioner was called upon to cross-examine the witnesses without any chief examination. When the petitioner questioned the enquiry officer as to how it could be possible for him to conduct cross-examination without there being a chief examination, he was informed that chief examination had already been recorded from as many as seven witnesses. He declined to cross-examine the witnesses and declined to sign in the proceeding. On the spot, instantaneously, he gave a letter to the enquiry officer, protesting against the procedure adopted

by him in not recording the deposition of the witnesses in his presence. That was not considered. Thereafter, the enquiry was postponed to few more days. The petitioner, thereafter made a representation in this regard, demanding examination of witnesses in his presence. But nothing was considered. In those circumstances, the petitioner has come up with this petition seeking to quash the proceedings.

2. I have heard Mr. K. Venkatramani, learned senior counsel for the petitioner and Mr. P. Sanjay Gandhi, learned Additional Government Pleader for the respondents and perused the records carefully.

3. The learned senior counsel for the petitioner, while reiterating the averments made in the affidavit, would submit that the enquiry by the enquiry officer was not held properly by following the procedure established by law. He would further submit that the witnesses were not examined in the presence of the petitioner and instead, statements of the witnesses had already been recorded and the petitioner was asked only to cross examine them. But the learned Additional Government Pleader would submit that the witnesses were examined in chief only in the presence of the petitioner and not in his absence. But the petitioner was not willing to co-operate with the enquiry officer inasmuch as he did not sign the relevant proceedings as required.

4. I have considered the above submissions.

5. From the very fact that on 07.04.2014, the petitioner gave a hand written letter to the enquiry officer protesting that the witnesses were not examined in his presence, I infer that there is truth in it. Apart from that, before the commencement of the proceedings, from the files, it could be seen that the petitioner had given a letter seeking adjournment since he was in need of a retired officer to assist him during the enquiry. But no order was passed by the enquiry officer. This would also go to show that the enquiry was not held properly in accordance with law.

6. When this was pointed out, the learned senior counsel for the petitioner submitted that the petitioner would be satisfied if any other enquiry officer is appointed and enquiry is conducted afresh. However, the learned Additional Government Pleader would oppose the said plea.

7. Having regard to the facts and circumstances of the case, more particularly, when I find materials from the original file that enquiry was not held properly and that it would not be conducive to allow the very same enquiry officer to hold the enquiry hereafter, I am of the view that it would be appropriate for this Court to issue a direction to change the enquiry officer and hold enquiry afresh by examining the witnesses, including the witnesses who have already been examined, in chief and then allow the petitioner to cross-examine the witnesses.

8. In the result, the writ petition is disposed of in the following terms:

(i) The first respondent is directed to appoint some other officer as enquiry

officer and such order shall be issued within a period of one week from the date of receipt of a copy of this order. The enquiry officer to be so appointed shall commence the enquiry after serving notice on the petitioner within a period of two weeks thereafter.

(ii) The enquiry shall be conducted on day to day basis. All the witnesses including those who are stated to have been examined already shall be examined afresh in chief examination in the presence of the petitioner and the petitioner shall be permitted to cross-examine the witnesses.

(iii) The petitioner shall be permitted to examine himself as a witness and to examine any other witness on his side and also to produce documents.

(iv) The petitioner will be entitled to have the assistance of any retired police officer.

(v) It is further directed that the enquiry shall be completed within two weeks from the date of commencement and report shall be submitted by the enquiry officer to the disciplinary authority within a period of four weeks thereafter. The disciplinary authority shall thereafter pass appropriate orders by following the procedure established by law without any further delay.

No costs. Consequently, connected miscellaneous petitions are closed.