

Deputy Inspector General of Police

Vs

G. Pandian

Civil Appeal No. ... of 1996 (arising out of Slp (C) No. 19068 of 1995)

(S.P. Bharucha, M.K. Mukherjee JJ)

18.01.1996

ORDER

1. Leave granted.

2. The respondent is a Sub-Inspector of Police in the State of Tamil Nadu. On 28-4-1993, he was working at the Devala Police Station. It is alleged that a car (No. KLV 2105), which was case property and under police custody, was taken away by the respondent without permission. A case was registered in this behalf. When the car was checked it was found that various parts thereof were either missing or replaced. A preliminary inquiry was conducted. A complaint was filed and on 11-5-1993, the respondent was placed under suspension. On 7-7-1993, the respondent moved the Tamil Nadu Administrative Tribunal (in OA No. 4119 of 1993) which, by its order of the same date, stayed the suspension order till 21-7-1993.

3. On 11-7-1993, the respondent was arrested at Vellore. The parts allegedly missing from the car were seized from him. Also seized was another car, bearing No. TN 43-7082 allegedly belonging to one Selvakumar of Kolacombai. In respect thereof a criminal case was registered against the respondent and he was detained in custody on 21-7-1993. The detention in custody continued until 8-8-1993, when the respondent was granted bail. In the meantime, on 4-8-1993, the respondent was suspended from service. The respondent moved the Tamil Nadu Administrative Tribunal and challenged the second suspension order. The Tribunal, by the impugned order dated 1-7-1994, set aside the same and directed the appellant to reinstate the respondent in service from the date on which he was enlarged from custody.

4. The reasons which the impugned order gives for setting aside the second suspension order are twofold. First, that the second suspension order had been passed arbitrarily in order to circumvent the earlier order of the Tribunal. Secondly, a

"preliminary enquiry conducted by the Deputy Superintendent of Police had enabled the respondent to place the applicant again under suspension on the ground that he was arrested and kept in custody for more than 48 hours. The preliminary Enquiry Report is not before us".

5. Rule 3(e)(2) of the Tamil Nadu Subordinate Services (Discipline and Appeal) Rules, 1955, reads thus :

"A member of a service who is detained in custody whether on a criminal charge or otherwise, for a period longer than forty-eight hours shall be deemed to have been

suspended under this Rule."

6. Inasmuch as the respondent was detained in custody on a criminal charge for a period longer than 48 hours, he was, by reason of the aforesaid provision, deemed to have been suspended. He was detained in custody on a criminal charge that related to the seizure from his custody of a car (No. 43-7082) allegedly belonging to someone else. The first charge had related to the parts of another car and was altogether different from the second charge.

7. There was, in our view, no justification for the Tribunal to conclude that its earlier order had been circumvented or to suspect that some preliminary enquiry had enabled the appellant to place the respondent again under suspension. Having regard to the terms of the provision aforequoted, which are crystal clear, the Tribunal ought not to have passed the impugned order.

8. The appeal is allowed. The impugned order is set aside. The respondent shall continue to remain under suspension.