

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.02.2015

CORAM

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI
AND
THE HON'BLE MR.JUSTICE M.VENUGOPAL

W.A.No.253 of 2015
and
M.P.No.1 of 2015

P.Arivazhagan

... Appellant/Petitioner

Vs.

1. The State of Tamil Nadu,
rep by the Principal Secretary to Government,
Home Department,
Fort St. George,
Chennai-600 009.
2. The Additional Director General of Police/
Inspector General of Prisons,
No.1, Gandhi Irwin Road,
CMDA Tower II
Chennai-600 008.
3. The Deputy Inspector General of Prisons,
Tiruchy Range,
Tiruchy.
4. The Superintendent of Prisons,
Borstal School,
Pudukkottai.

सत्यमेव जयते

... Respondents/Respondents

This writ appeal is preferred under Clause 15 of the Letters Patent against the order of this court dated 06.02.2014 made in W.P.No.9586 of 2013.

Writ petition filed under Article 226 of the Constitution of India praying for the issue of a writ of Certiorarified Mandamus to call for the records and quash the order in Letter No.19381/Pri.-2/2011-2 Home (Prison-II) Department, dated 17.04.2012 and direct the

first respondent to reinstate the petitioner in service and conduct proper departmental proceedings as per the Tamil Nadu Civil Services (Discipline and Appeal) Rules before taking any final decision in respect of the service of the petitioner.

For Appellant : Mr.K.Venkatramani, SC
for Mr.G.Saravanakumar

For Respondent : Mr.P.S.Sivashanmuga Sundaram, Spl.G.P.

JUDGMENT

(Judgment of the Court was made by SATISH K. AGNIHOTRI, J.)

The instant intra-court appeal arises from the order dated 06.02.2014 passed in W.P.No.9586 of 2013.

2. The writ petitioner came up with the writ petition, questioning the legality of the letter No.19381/Pri.2/2011-2, Home (Prison-II) Department, dated 17.04.2012, whereunder the request of the petitioner for reinstatement was rejected.

3. The question of law as to whether the writ petitioner was entitled to reinstatement with consequential backwages came into consideration earlier in W.P.No.4065 of 2003. A Division Bench of this court by order dated 20.7.2006 passed the following order :

"Therefore, as seen from the above said factors, the first respondent has not offered proper explanation to the show cause notice before passing desertion order, except saying that there was no cordial relationship between him and his wife since both were working in different places. Therefore, in the absence of proper explanation from the first respondent, we see no reason to confirm the order of reinstatement. Accordingly, we are also not inclined to confirm the payment of backwages on the principle of "no work no pay"."

4. Thereagainst, a review petition being Review Application (Writ) No.35 of 2009 was taken up by the appellant / writ petitioner. The review application was also dismissed on 17.4.2009. The writ petitioner again raised the same issue by way of his representation dated 7.3.2011, which was considered by the Government and rejected vide impugned letter dated 17.4.2012. The learned Single Judge, having seen the aforestated background, dismissed the writ petition, holding that the petition was devoid of merits.

5. We have considered the submissions advanced by the learned Senior Counsel for the appellant and also perused the pleadings and documents appended thereto. We have examined the case in its entirety.

6. Once the relief sought for by the writ petitioner was rejected by way of judicial pronouncement as aforesaid, the representation dated 7.3.2011 was rightly rejected by the impugned letter dated 17.4.2012. Thus, we do not find any error, illegality or irregularity in the order of the learned Single Judge sought to be impugned in the writ appeal. Accordingly, the writ appeal is dismissed. No costs. Consequently connected miscellaneous petition is closed.

Sd/-
Asst. Registrar

/true copy/

vvk

Sub Asst. Registrar.

To

1. The Principal Secretary to Government,
The State of Tamil Nadu,
Home Department,
Fort St. George, Chennai-600 009.
2. The Additional Director General of Police/
Inspector General of Prisons,
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CMDA Tower II, Chennai-600 008.
3. The Deputy Inspector General of Prisons,
Tiruchy Range, Tiruchy.
4. The Superintendent of Prisons,
Borstal School, Pudukkottai.

+lcc to Mr.G.Saravana Kumar, Advocate, S.R.No.10535

+lcc to the Government Pleader, S.R.No.10799

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