

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.04.2015

CORAM:

THE HON'BLE MR.JUSTICE D.HARIPARANTHAMAN

W.P.No.12703 of 2015
and
M.P.No.1 of 2015

K.Chandrasekaran

... Petitioner

Vs.

1.The Commissioner of Police,
Chennai Police Office,
Vepery,
Chennai -600 007.

2.The Deputy Commissioner of Police,
Triplicane Range,
Chindatripet,
Chennai-600 002.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for a Writ of Certiorarified Mandamus to calling for the records pertaining to the order passed by the second respondent herein in his Na.Ka.No.L1/26215/2015, EZO No. /2014 dated 16.03.2015 confirming the order of desertion with effect from 05.12.2014 and quash the same and consequently direct the respondents herein to treat the period from 08.12.2014 till date as duty for all purposes.

For Petitioner : Mr.Ravi Shanmugam

For Respondents: Mr.S.Gunasekaran, Government Advocate

O R D E R

Heard both sides. By consent, the writ petition is taken up for final disposal at the admission stage itself.

2. The petitioner is a Special Sub Inspector of Police. He applied for leave with effect from 05.12.2014 for three days. The petitioner sent an application for extension of leave on 11.12.2014 by registered post to the Inspector of Police. It was surprising that the Inspector of Police refused to receive the said notice and the copy is enclosed in the typed set of papers which discloses the refusal by the Inspector of Police. Thereafter, the petitioner sent

a leave application on 15.12.2014 to the Joint Commissioner of Police and another leave application dated 18.12.2014 to the Deputy Commissioner of Police. While so, an order 07.01.2015 was issued by the second respondent treating the petitioner as deserter.

3. According to the learned counsel for the petitioner, the petitioner cannot be treated as a deserter, particularly, when he made leave application. A police officer could be treated as a deserter only if his whereabouts are not known for sixty days. Even as per the order dated 07.01.2015 of the second respondent, he was asked to report duty within sixty days. According to the petitioner, he reported duty on 07.01.2015 itself and also made a representation. But the grievance of the petitioner is that he was not permitted to join duty and the first respondent passed the impugned order confirming the order of the second respondent that the petitioner is a deserter from 05.12.2014 to 29.01.2015. In these circumstances, the petitioner has filed this writ petition to quash the order dated 16.03.2015 passed by the first respondent.

4. The learned counsel for the petitioner submits that the Department shall either provide employment after the order of desertion or place him under suspension, pending disciplinary action. The respondents could not simply keep quiet denying employment to the petitioner.

5. The option is left to the respondents either to provide employment to the petitioner pending disciplinary proceedings or to keep the petitioner under suspension pending disciplinary proceedings.

For the aforesaid reasons, this writ petition is disposed of directing the respondents to provide employment to the petitioner forthwith pending disciplinary proceedings or place him under suspension during the disciplinary proceedings. The said exercise shall be completed within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

dn/gm

To

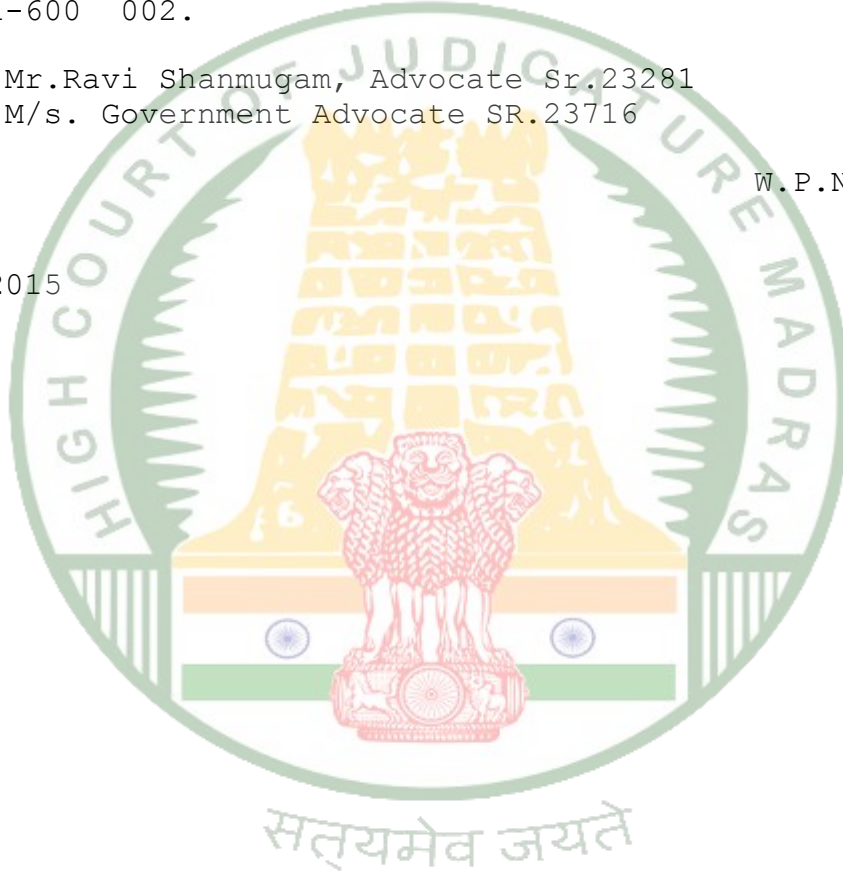
1.The Commissioner of Police,
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2.The Deputy Commissioner of Police,
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Chennai-600 002.

+ 1 cc to Mr.Ravi Shanmugam, Advocate Sr.23281
+ 1 cc to M/s. Government Advocate SR.23716

W.P.No.12703 of 2015

RSK(CO)
Eu 04.05.2015



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