

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.07.2016

CORAM:

THE HONOURABLE MR.JUSTICE B.RAJENDRAN

Writ Petition No.22621 of 2016
and
WMP. No. 19297 of 2016

M.Senthilkumar

Petitioner

Versus

1. The Director General of Police,
(Law and Order),
Mylapore, Chennai- 600 004.
2. The Deputy Inspector General of Police,
Trichy Zone, Trichy.
3. The Superintendent of Police,
Ariyalur District.

Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records connected with the proceeding issued in Na.Ka.No.A3/Tha.Pa.47/2014 Rule 3(b) dated 15.04.2015 passed by the 3rd Respondent and proceedings issued in Na.Ka.No.P1/Me.Mu.30/15 dated Nil.08.2015 passed by the 2nd Respondent and proceedings issued in Rc.No.176314/AP.IV (1)/2015 dated 31.03.2016 passed by the 1st Respondent and quash the same and consequently direct the Respondents to instate the petitioner into service with all attendant benefits.

For petitioner
For Respondents

: Mr.S.Ilamvaludhi
: Mr.K.Rajendra Prasad
Government Advocate

O R D E R

This Writ Petition has been filed challenging the proceeding in Na.Ka.No.A3/Tha.Pa.47/2014 Rule 3(b) dated 15.04.2015 on the file of the 3rd Respondent, proceedings issued in Na.Ka.No.P1/Me.Mu.30/15 dated Nil.08.2015 on the file of the 2nd Respondent and proceedings issued in Rc.No.176314/AP.IV (1)/2015 dated 31.03.2016 on the file of the 1st Respondent, quash the same and consequently direct the Respondents to reinstate the petitioner into service with all attendant benefits.

2. Heard the learned counsel for the petitioner as well as learned Government Advocate appearing for the respondents.

3. The learned counsel for the petitioner would submit that the petitioner, while working as a police constable, was dismissed from service for the reason that he has not reported duty for 21 days. After exhausting the appeal remedy, the petitioner filed a mercy petition before the Director General of Police (Law & Order), Chennai on 01.10.2015 and it was also rejected on 31.03.2016 stating that he has not preferred any appeal against the order of punishment without regard to the fact that the Mercy petition itself was filed as against the order passed in the appeal. The learned counsel for the petitioner therefore would contend that the order dated 31.03.2016 passed by the first respondent is contrary to facts. Further, the first respondent has passed a cryptic order while rejecting the Mercy Petition without assigning any reasons. According to the learned counsel for the petitioner, as per the Judgment of Division Bench of this Court in W.A.No.668 of 2007 dated 19.09.2007, the appellate authority should pass a detailed order and such order has to be passed in consonance with Rule 23 of the Tamil Nadu Civil Services (Classification, Control and Appeal) Rules. The learned counsel for the petitioner therefore prayed this Court to set aside the order dated 31.03.2016 and to allow the writ petition.

4. The learned Government Advocate appearing for the respondents, on instructions, would submit that the first respondent has assigned reasons for rejecting the Mercy Petition of the petitioner after considering all the points raised by him. While so, according to the learned Government Advocate, the impugned orders does not call for interference by this Court and he prays for dismissal of this Writ Petition.

5. A perusal of the impugned order dated 31.03.2016 of the first respondent would go to show that in paragraph 9, it was stated that the petitioner did not prefer any appeal against the punishment imposed on him. Such an observation made by the first respondent is contrary to truth inasmuch as the Mercy

Petition has been filed by the petitioner only after rejection of the appeal preferred by him as against the order of punishment. Further, as rightly pointed out by the learned counsel for the petitioner, the first respondent has not passed a detailed order by assigning reasons for rejecting the Mercy Petition preferred by the petitioner. which is contrary to the Judgment rendered by the Division Bench of this Court in W.A. No. 668 of 2007 dated 19.09.2007. In such view of the matter, I am inclined to set aside the order dated 31.03.2016 of the first respondent alone and to remand the matter back to the first respondent for fresh consideration.

6. With the above observation, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1. The Director General of Police,
(Law and Order),
Mylapore, Chennai- 600 004.
2. The Deputy Inspector General of Police,
Trichy Zone, Trichy.
3. The Superintendent of Police,
Ariyalur District.

+1 cc to Mr.S.Ilamvaludhi Advocate sr 40268
+1 cc to Government Pleader sr 40268

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