

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.10.2016

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THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.36644 of 2016

Prasanna Gunasundari

... Petitioner

Vs.

The Director General of Police,
Dr.Radhakrishnan Salai,
Mylapore,
Chennai - 600 004.

... Respondent

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents to pass orders on the mercy petition/ review petition submitted by the petitioner dated 19.11.2014 against the punishment of Compulsorily Retirement from Service imposed by the Deputy Inspector General of Police, Madurai Range in his proceedings in Rc.No.655/A2/9920/2011 PR.No.40/2012, u/r. 3(b) Madurai District dated 05.04.2013 within a reasonable time.

For Petitioner : Mr.M.Muthappan

For Respondent : Mr.K.Dhananjayan
Special Government Pleader

O R D E R

By consent, the writ petition is taken up for final disposal.

2.The present writ petition has been filed seeking a Mandamus directing the respondents to pass orders on the mercy petition/ review petition submitted by the petitioner dated 19.11.2014 against the punishment of Compulsorily Retirement from Service imposed by the Deputy Inspector General of Police, Madurai Range in his proceedings in Rc.No.655/A2/9920/2011 PR.No.40/2012, u/r. 3(b) Madurai District dated 05.04.2013 within a reasonable time.

3.The petitioner would state that she entered the service as a directly recruited Women Grade II Police Constable and appointed to service on 14.04.1981 and after institutional training, she was upgraded as Grade I Police Constable on the same date. The petitioner was further promoted as Head Constable in June 1996 and as

Sub Inspector of Police on 19.01.2004.

4.The petitioner would further state that whileso, when she was serving as Sub Inspector of Police in Kallikudi Police Station, Madurai, on 10.09.2011, one Thiru.Rajendran, Inspector of Police, National Highway Traffic, Thirumangalam, during the course of intensive patrolling towards Virudhunagar, found a women standing nearby K.Vellankulam Junction and he stopped his police vehicle and on seeing the police vehicle, the said woman and four other persons ran away to Kanmai. The said persons were chased and three of them were caught and brought to police station and a crime was registered in Crime No.163/2011 under Sections 147, 148, 353,307 IPC and 25 Clause 1 of the Arms Act.

5.The petitioner would further state that thereafter, one Thiru.Venugopal, Inspector of Police interrogated the accused and on their confession, he recovered 16 items of gold jewels weighing 163.344 grams under various magazars and after returning to the Police Station, he prepared 5 Form 95 numbered as E2808302 to E2808306 and handed over the jewels to the petitioner for remanding to judicial custody. On 24.09.2011, the petitioner produced all the Form 95 and the magazars before the Judicial Magistrate Court, Thirumangalam but the learned Judicial Magistrate returned the documents and jewels with endorsements stating to submit the properties along with Appraiser.

6.The petitioner would further state that on 29.11.2011, the petitioner went to Court again for remanding the properties but due to non availability of appraiser, the properties could not be remanded and when she checked the properties in the Court premises, she found that six items in Form 95 E2803802 were missing. Hence, a criminal case was registered against the petitioner for the negligence in performing her duties and she was issued with a charge memo under Rule 3(b) of the TNPSS (D & A) Rules, 1955 containing charges in PR.No.40/2012 alleging that the petitioner who is entrusted with the properties in connection with the Crime No.163/2011 of Kallikudi Police Station along with Form 95 did not make necessary entries in General Diary, Property Register and para book of the Police Station and due to the delay in handing over the properties, the jewels weighing 107.094 grams were found missing and thereby committed reprehensible conduct by her negligence and carelessness.

7.The petitioner would further state that she submitted a detailed explanation denying the charges. Thereafter enquiry was conducted by the Enquiry Officer and the Enquiry Officer submitted a report holding that all the charges against the petitioner had been proved and the petitioner was furnished with the Enquiry Officer's report on 07.12.2012. The petitioner submitted her further representation for the Enquiry Officer's report on 18.01.2013 and the Disciplinary Authority agreed with the findings of the Enquiry Officer and vide order dated 05.04.2013, imposed the punishment of

Compulsory Retirement from service. Hence, the petitioner preferred a Statutory Appeal to the Director General of Police and the said Appeal was decided by the Additional Director General of Police, Chennai and he did not consider any of the points raised by the petitioner and vide order dated 10.08.2014, rejected the petitioner's Appeal. The petitioner therefore submitted a Mercy Petition/ Review Petition to the respondent on 19.11.2014 through proper Channel and the same is still pending. Hence, this petition.

8. Heard the submissions of the learned counsel appearing for the petitioner and the learned Special Government Pleader who takes notice for the respondent.

9. Considering the submissions made on either side and without going into the merits of the case, this Court directs the respondent to pass appropriate orders on the Mercy Petition/ Review Petition of the petitioner dated 19.11.2014, on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order.

10. The writ petition is disposed of accordingly. No costs.

-sd/-
Assistant Registrar

/ TRUE COPY /

Sub-Assistant Registrar

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To

The Director General of Police,
Dr. Radhakrishnan Salai,
Mylapore,
Chennai - 600 004.

+1 cc to M/S.M.MUTHAPPAN Advocate SR.NO. 59266

+1 cc to the Government Pleader SR.NO. 60207

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W.P.No.36644 of 2016

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RD 24/06/2015