

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2016

CORAM:

THE HON'BLE MR.JUSTICE M.S.RAMESH

W.P.Nos.21096 to 21098 of 2013

R.Dinesh ... Petitioner in W.P.21096/2013
S.Sivamurthy ... Petitioner in W.P.21097/2013
R.Gnanasekaran ... Petitioner in W.P.21098/2013

Vs.

1. The Additional Director of Police cum
the Director of Prisons,
Chennai-4.
 2. The Superintendent of Prisons,
Central Prison,
Coimbatore-18.
- ... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India praying to issue a writ of Certiorarified Mandamus to call for the records relating to the order of the second respondent made in proceedings No.11324/Po 4/2012 dated 06.03.2013 and to quash the same and consequently direct the respondents to reinstate the petitioners in service and to extend all benefits both service and monetary including backwages.

For Petitioner : Mr.L.Chandrakumar

For Respondents : Mr.R.Govindasamy,
Special Government Pleader

COMMON ORDER

Based on the charge memo dated 30.08.2012, the petitioners were terminated from their service. Challenging the same, the present writ petitions are filed.

2.The case of the petitioners is that the charge memo dated 30.08.2012, alleging that the petitioners had thrown contraband articles inside the prison on 26.06.2012 is baseless. Based on the charge memo, the petitioners were subjected to departmental

enquiry. According to the learned counsel for the petitioners, six witnesses were examined and none of the witnesses have stated that they had seen that the petitioners had thrown the contraband articles in the prison. Further more, the learned counsel for the petitioners would submit that the weight of the parcel that was thrown inside the prison compound wall, is about 18.17 kgs and the prison compound wall height is 18 feet and it is humanly not possible to throw the articles over the wall from outside. He would further submit that the enquiry has been conducted in haphazard manner which would be evident from the fact that the charge memo was issued on 30.08.2012 was followed by an enquiry conducted on the single day, based on which, the impugned order of dismissal came to be passed on 06.03.2013 itself. Hence, the petitioners seek for an order to quash the dismissal orders.

3.Mr.R.Govindasamy, the learned Special Government Pleader on the other hand, would submit that there is no material on record to show that the parcel which was thrown inside of the compound wall is weighing about 18.17 kgs. According to the learned Special Government Pleader, the petitioners were given due opportunity during the enquiry and the principles of natural justice was duly followed. He would further submit that there is an appeal remedy against the impugned order which the petitioners have not availed and hence, the writ petition need not be entertained.

4.Heard the learned counsel for the petitioner and the learned Special Government Pleader for the respondents.

5.Though the petitioners have raised various grounds in this writ petition, it would not be appropriate for this Court exercising its power under Article 226 of the Constitution of India to give findings on the factual aspects. The petitioner can go before the first respondent before whom an appeal remedy is available under regulations to redress their grievance. I do not intend to pass any remarks on the findings of the enquiry officer, since by this order, a liberty is being granted to the petitioners to file an appeal before the first respondent.

6.Under these circumstances, the prayer sought for in these writ petitions seeking for quashing of the impugned order is rejected. However, the petitioners are given liberty to file an appeal before the first respondent against the impugned order dated 06.03.2013 passed by second respondent, within a period of 15 days from the date of receipt of a copy of this order and the first respondent shall take it on file without insisting on the limitation and conduct a proper enquiry in accordance with law and pass orders, within a period of three months from the date of receipt of the said appeals.

7.With the above observations, these writ petitions are disposed. No costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

kal

To

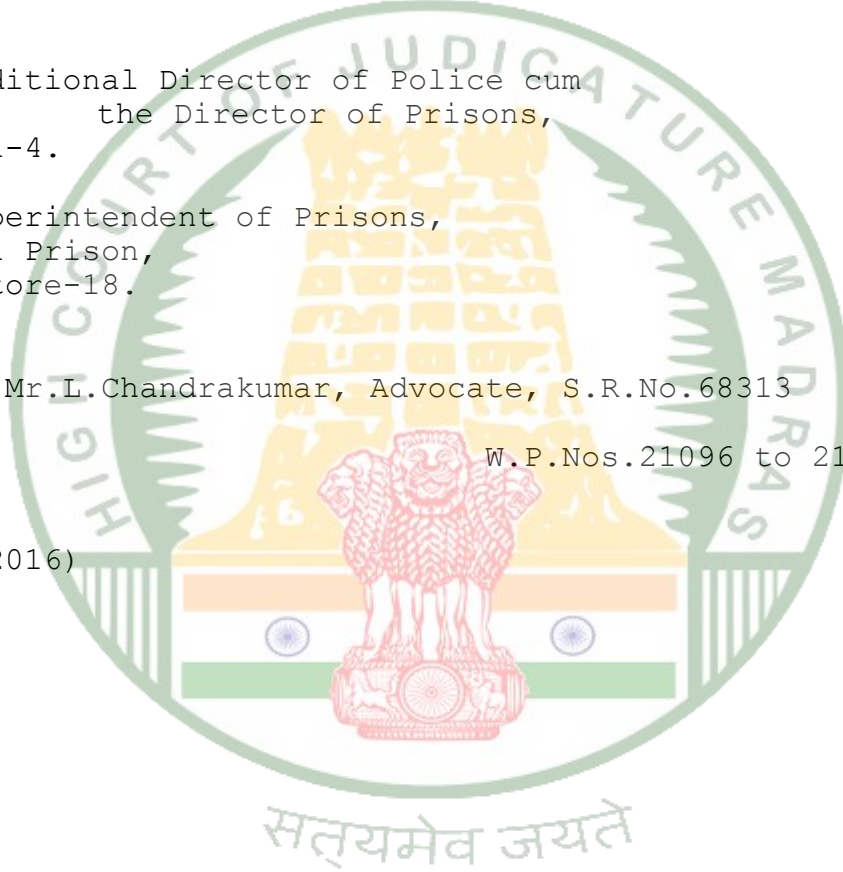
1. The Additional Director of Police cum
the Director of Prisons,
Chennai-4.

2. The Superintendent of Prisons,
Central Prison,
Coimbatore-18.

+3cc's to Mr.L.Chandrakumar, Advocate, S.R.No.68313

W.P.Nos.21096 to 21098 of 2013

MSM(CO)
CA(20/12/2016)



WEB COPY