

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31-07-2017

CORAM:

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.8205 of 2017

And

WMP No.8964 of 2017

M.Ramamurthy(Gr.I PC 1046)

.. Petitioner

vs.

The Superintendent of Police,
Cuddalore District,
Cuddalore.

.. Respondent

This Writ Petition is filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus, forbearing the respondent from taking any further action pursuant to the show cause notice in C.No.D2/7217/2017 dated 20.3.2017 issued by the respondent herein, till the disposal of the C.A.No.15 of 2017 on the file of the Court of Sessions, Cuddalore Division, Cuddalore.

For Petitioner : Mr.S.P.Sudalaiyandi

For Respondent : Mr.S.Gunasekaran,
Additional Government Pleader.

O R D E R

The relief sought for in this writ petition is to forbear the respondent from having any further action pursuant to the show cause notice dated 20.3.2017 issued by the respondent till the disposal of the

C.A. No.15 of 2017.

2. The prayer sought for in this writ petition is so innocuous and cannot be entertained by this Court under Article 226 of the Constitution of India.

3. The writ petitioner was holding the post of Grade-I Police Constable and on account of criminal case, a full-fledged trial was conducted and he was convicted in C.C.No.70 of 2013. Against the order of conviction, he preferred an appeal in C.A. No.15 of 2017. The appeal is pending before the Sessions Judge, Cuddalore.

4. The learned counsel appearing for the writ petitioner contended that since the writ petitioner is having every chance of succeeding in the criminal appeal, the writ petitioner should be allowed to continue in service and the writ petition is to be admitted. This proposition submitted by the learned counsel for the writ petitioner, cannot be accepted in view of the fact that once a public servant is convicted for the offences by the Criminal Court, he has no authority to continue in service.

5. As per the Standing Orders, soon after the order of conviction is made available to the Department, it is the duty of the Department to take action under the Standing Orders against the

employee concerned. Thus, the action taken by the Department is in accordance with the Standing Orders. Thus, the show cause notice issued by the respondent is in accordance with the Standing Orders.

6. The writ against a show cause notice can be entertained only under exceptional circumstances and not in a routine manner. If the show cause notice is issued by the authority without jurisdiction or on the ground of mala fides, the writ can be entertained and not otherwise. Thus, the show cause notice issued against the writ petitioner is in order and as on today, the order of conviction stands against the writ petitioner and therefore, he has no right to continue as a public servant under the Standing Orders. The mere pendency of the criminal appeal cannot be a ground to continue in public services. In the absence of any interim stay of the order of conviction, the disciplinary authority need not wait for the final disposal of the Criminal Appeal.

7. The writ petitioner, being a member of an Uniformed Services, has no right to continue in service. The Police Services are disciplined forces where there cannot be any compromise on discipline and conduct. Any indiscipline or misconduct has to be viewed very seriously. But in the case on hand, it is an order of conviction which stands against the writ petitioner. Thus, it is more serious than that of the disciplinary proceedings initiated under the Standing Orders.

S.M.SUBRAMANIAM, J.

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8. This being the view of this Court, no further consideration is required in this writ petition. Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is also dismissed.

31-07-2017

Speaking Order/Non-Speaking Order.

Index : Yes/No.

Internet : Yes/No.

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To

The Superintendent of Police,
Cuddalore District,
Cuddalore.

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W.P.No.8205 of 2017

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