

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.08.2017

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THE HONOURABLE MR. JUSTICE V.PARTHIBAN

W.P.Nos.4764 and 4765 of 2014

S.Hakeem .. Petitioner in
W.P.No.4764 of 2014

D.Boovendhiran .. Petitioner in
W.P.No.4765 of 2014

Vs.

1.The Director General of Police
(Training), Ashok Nagar,
Chennai.

2.The Commandant,
TSP XII Battalion In-charge
Police Recruit School, Manimutharu.

3.The Principal,
Temporary Police Training School,
TSP IX Battalion, Manimutharu.

.. Respondents in both
the W.Ps

Petitions filed under Article 226 of The Constitution of India praying for the issuance of a writ of certiorarified mandamus to call for the records of the respondents in connection with the impugned order passed by the third respondent in Na.Ka.No.87/Tha.Ka.Pa/Tha.si.ka.IXBm./2013 dated 14.03.2013 and Na.Ka.No.Thi.Ka.Pa.69/2013/Pa.Pa.No.05/2013 dated 07.03.2013 and the subsequent rejection order passed by the second respondent in C.No.087/Ty.PRS/TSP IX Bn., dated 20.07.2013 and C.No.69/Ty.PRS/TSP IX Bn.,/13 dated 22.08.2013 and quash the same and further direct the respondents to take back the petitioners for training in the police training school and grant them all consequential service and monetary benefits.

For Petitioner .. Mr.S.Sivakumar
in both the W.Ps

For Respondents .. Mr.T.M.Pappiah,
Spl. Govt. Pleader
in both the W.Ps

COMMON ORDER

The petitioners have approached this Court seeking the following relief:

"to issue a writ of certiorarified mandamus to call for the records of the respondents in connection with the impugned order passed by the third respondent in Na.Ka.No.87/Tha.Ka.Pa/Tha.si.ka.IXBm./2013 dated 14.03.2013 and Na.Ka.No. Tha.Ka.Pa.69/2013/Pa.Pa.No.05/2013 dated 07.03.2013 and the subsequent rejection order passed by the second respondent in C.No.087/Ty.PRS/TSP IX Bn., dated 20.07.2013 and C.No.69/Ty.PRS/TSP IX Bn.,/13 dated 22.08.2013 and quash the same and further direct the respondents to take back the petitioners for training in the police training school and grant them all consequential service and monetary benefits."

2.The case of the petitioners is that in response to the Notification issued for recruitment to the post of Grade II Police Constable by the Tamil Nadu Uniformed Service Recruitment Board in 2012, the petitioners had applied for consideration of their candidature. They were subjected to various rounds of selection. Finally, they came out successful and they were appointed as Grade II Police Constables by the second respondent vide appointment letters dated 20.12.2012 and 26.01.2013 respectively. After having appointed, the petitioners were directed to report for training at TSP IX Battalion, Manimutharu on 17.02.2013. In response to the direction, the petitioners reported for duty for the purpose of undergoing training.

3.While the training was underway, the petitioner in the respective writ petitions was informed that his mother was not well and was admitted in the hospital and taking treatment. The petitioners have received communications in that regard on 09.03.2013 and 04.03.2013 respectively. At this, the petitioners approached the third respondent and requested him to grant leave to see and take care of their mothers. However, the leave which was sought by the petitioners was refused. According to the

petitioners, they are the only sons in their families and therefore they felt that they were duty bound to take care of their mothers, who were facing health issues. In view of the severe health conditions of their mothers, the petitioners were unable to concentrate on their training and therefore, they renewed their request to the third respondent for permission to look after their mothers but the same was refused. The petitioners, therefore was left with no option, submitted their resignation out of sheer frustration and desperation on 09.03.2013 and 07.03.2013 respectively and the same was accepted by the third respondent vide his proceedings dated 14.03.2013 and 07.03.2013 respectively.

4. Thereafter, the petitioners seemed to have proceeded to their native places and looked after their mothers and after taking treatment, the petitioners' mothers seemed to have recovered from their illness. After recovery of their mothers, the petitioners went back to the battalion in which they were originally posted for training within few days and requested the third respondent not to accept their resignation. However, the request of the petitioners came to be rejected stating that their resignation had already been accepted by the authority on 14.03.2013 and 07.03.2013 itself. The decision was intimated to the petitioners vide communication dated 20.07.2013 and 22.08.2013 respectively. The acceptance of the resignation and the rejection orders are put to challenge in these writ petitions.

5. Learned counsel appearing for the petitioners would at the outset submit that as per the Tamil Nadu Special Police Subordinate Service Rules, 1978, a member of service may resign his appointment by giving advance notice not less than three months and he may withdraw the notice of his resignation before its acceptance. According to him, the acceptance by the authority concerned without even giving an opportunity to the petitioners within a matter of few days/on the same day is contrary to the provisions as the authority ought to have waited for expiry of three months before the same is accepted or ought to have waited for a reasonable time. According to the learned counsel for the petitioners, the acceptance of the letter on behalf of the principal by the other official is also not a valid acceptance. According to him, the second respondent is the competent authority to accept the resignation. Therefore, in any event, the acceptance of resignation is not valid in the eye of law.

6. However, the learned counsel would also submit that in view of the extreme emergency and out of mental turmoil, the resignation letters were given only in order to avail few days leave to look after their mothers' health condition and the

authorities ought to have waited for some reasonable time before the resignation letters were accepted. The manner in which the resignation letters had been hurriedly accepted by the authority whether he was competent or otherwise does demonstrate lack of understanding of the circumstances under which the resignation letters were tendered by the petitioners.

7. Upon notice, Mr. T. M. Pappiah, learned Special Government Pleader entered appearance on behalf of the respondents and filed counter. He reiterated the contents contained in the counter affidavit.

8. Upon consideration of the arguments advanced by the learned counsel appearing for the petitioners and the learned Special Government Pleader appearing for the respondents, this Court is of the view that there is considerable force in the contentions put forth by the learned counsel for the petitioners as the manner in which the resignation letters had been accepted so promptly without appreciating the circumstances under which the resignation letters were tendered does demonstrate the lack of understanding, as argued by the learned counsel for the petitioner. Moreover, the authority ought to have waited at least a reasonable time as indicated in Rule 36A of the Tamil Nadu Special Police Subordinate Service Rules, 1978, before the resignation letter came to be accepted. There is also force in the contention that the resignation letters were accepted by the officer, who was not competent to accept the same.

9. In the abovesaid circumstances, this Court has no hesitation in allowing the writ petitions. Therefore, the impugned orders accepting the resignation dated 14.03.2013 and 07.03.2013 and further rejection of the petitioners' claim dated 20.07.2013 and 22.08.2013 for withdrawing the resignation are set aside. The respondents are directed to take back the petitioners and depute them for training as Grade II Police Constable. The respondents are also directed to pass consequential order taking back the petitioners within a period of two months from the date of receipt of a copy of this order.

10. The writ petitions stand allowed on the above terms. No costs.

Sd/-
Asst. Registrar (CS VIII)

/true copy/

Sub Asst. Registrar

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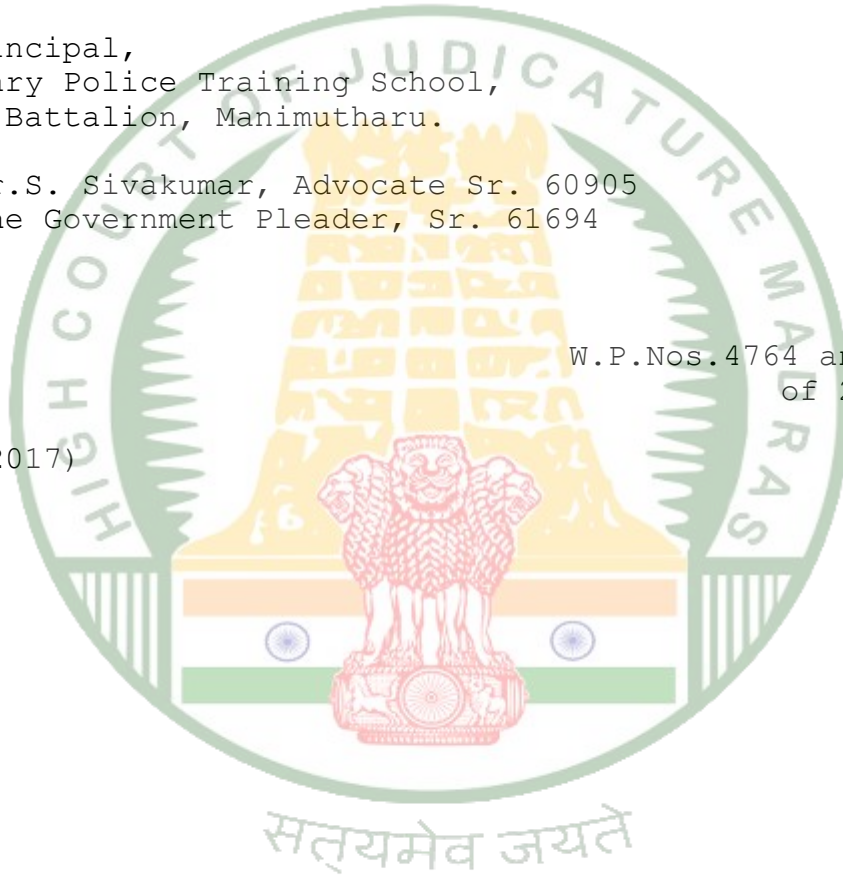
To

1. The Director General of Police
(Training), Ashok Nagar,
Chennai.
2. The Commandant,
TSP XII Battalion In-charge
Police Recruit School, Manimutharu.
3. The Principal,
Temporary Police Training School,
TSP IX Battalion, Manimutharu.

+lcc to Mr.S. Sivakumar, Advocate Sr. 60905
+lcc to the Government Pleader, Sr. 61694

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of 2014

VR(04/09/2017)



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