



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 13.07.2017

CORAM:

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THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.A.[MD].No.950 of 2017
and
C.M.P.[MD]No.6408 of 2017

A.Vallinayagam ... Appellant/petitioner

Vs.

1. The Director General of Police,
Chennai-4.
2. The Commissioner of Police,
Madurai City.
3. The Deputy Commissioner of Police,
Headquarters,
Armed reserve,
Madurai City.
4. The Assistant Commissioner of Police,
Thallakulam (Law and Order),
Madurai City. ... Respondents /Respondents

PRAYER : Writ Appeal is filed under Clause 15 of the Letters Patent, to set aside the order dated 25.04.2017 passed by this Court in WP(MD)No.7665 of 2017.

Prayer in WP(MD). 7665/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorarified Mandamus to calling for the records relating to the impugned order of dismissal from service by the 3rd respondent dated 05.02.2013 in P.R.No.91/13 under rule 3(b) and quash the same and consequently quash the impugned orders passed by the 2nd respondents herein dated 03.04.2014 in C.No.D1(2)/PR91/13 and the 1st respondent dated 10.08.2016 in Rc.No.107936/AP.II(3)/2014 by confirming the impugned order passed by the third respondent and quash the same and consequently direct the respondents to reinstate the petitioner into service, together with all consequential services and monetary benefits.



For Appellants

: Mr.S.Ramasamy

For Respondents

: Mr.T.S.Md.Mohideen, AGP

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JUDGMENT

[Judgment of the Court was delivered by **G.R.SWAMINATHAN, J.**]

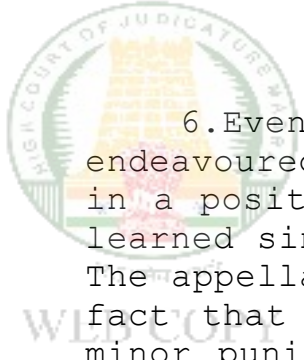
The unsuccessful writ petitioner is on appeal, questioning the order dated 25 April 2017, dismissing W.P.(MD) No.7665 of 2017.

2.The said writ petition was filed by the appellant herein, questioning his dismissal from service by the third respondent herein vide order dated 05 February 2014 in P.R.No.91 of 2013. The writ petitioner had filed an appeal before the second respondent herein and also a revision before the first respondent. Both the appellate and revisional authorities sustained the order of dismissal from service.

3.The petitioner joined Tamil Nadu Police Service as Grade II Police Constable in the year 1994. He was served with the charge memo in P.R.No.91 of 2013 dated 13 August 2013. It was alleged in the said charge memo that the writ petitioner was unauthorizedly absent from 12 May 2013 and that he had been declared as deserter. Since the writ petitioner continued to remain absent, even after such confirmation as a deserter, the same amounted to misconduct leading to the issuance of the said charge memo. Enquiry was conducted. The Enquiry Officer submitted a report dated 20 December 2013 finding that the charges framed against the writ petitioner stood proved. After complying with the usual procedure, the third respondent herein passed the order dated 05 February 2014 removing the writ petitioner from service. The second respondent herein by order dated 03 April 2014 rejected the appeal. The Director General of Police, Tamil Nadu also confirmed the same by his order dated 10 August 2016.

4.The learned Judge noted that the writ petitioner did not dispute the charges framed against him. Though normally for unauthorized absence, the punishment of removal from service apparently would appear to be a little disproportionate, in the facts and circumstances of the case, the same is justified. The writ petitioner had earlier suffered two major punishments and 11 minor punishments. In that view of the matter, the learned single Judge dismissed the writ petition.

5.We have heard the learned counsel for the appellant as well as the learned Additional Government Pleader appearing for the



6. Even before us, though the learned counsel for the appellant endeavoured to persuade us on mere grounds of sympathy, we are not in a position to take a different view from the one taken by the learned single Judge because of the track record of the appellant. The appellant was a member of the police force. It is an admitted fact that he had earlier suffered two major punishments and 11 minor punishments. We went through the records and we find that on one occasion, the appellant was found guilty of having behaved in a drunken condition. The appellant had also been a rank deserter. In matters concerning discipline in uniformed service, we have to necessarily take a strict view. Seeking to interfere with the order of punishment would only amount to misplaced sympathy. Therefore, we are constrained to dismiss this writ appeal.

7. Accordingly, this writ appeal is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

To

1. The Director General of Police,
Chennai-4.
2. The Commissioner of Police,
Madurai City.
3. The Deputy Commissioner of Police,
Headquarters, Armed reserve,
Madurai City.
4. The Assistant Commissioner of Police,
Thallakulam (Law and Order),
Madurai City.

+1cc to Mr.S.Ramasamy, Advocate in SR.No.65442

+1cc to The Special Government Pleader in SR.No.65676

Arul/Skm

AE/MR KKR/SAR3/31.07.2017/3P/7C

**W.A. [MD] .No.950 of 2017
and**

**C.M.P. [MD] No.6408 of 2017
13.07.2017**