



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.07.2017

CORAM:

THE HONOURABLE MR.JUSTICE **T.RAJA**

W.P (MD) No.12433 of 2017

and

W.M.P. (MD) No.9581 of 2017

S.Sivachandran

... Petitioner

Vs.

1. The Additional Director General of Police and
Chairman of the Prison,
Prison Department,
Chennai.

2. The Deputy Inspector General of Prison,
Trichy Range,
Trichy.

3. The District Superintendent of Police and
Borstal School,
Pudukkottai,
Pudukkottai District.

.. Respondents

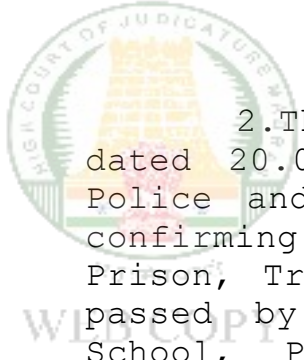
PRAYER : Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned orders passed by the third respondent in his proceedings in P-1/6577/2011, dated 29.02.2012, which was confirmed by the 2nd respondent in his proceedings in No.3526/Mu.Vu/2015 dated 21.01.2016 and the order passed by the first respondent in his proceedings No.5719/E.W.2/2016, dated 20.03.2017 and quash the same and consequently direct the respondents to reinstate the petitioner with all attendant and monetary benefits.

For Petitioner : Mr.C.Jeganathan
for M/s.Veera Associates

For Respondents : Mr.K.Guru
Addl. Govt. Pleader

O R D E R

By consent of both sides, this writ petition itself is
taken up for final disposal.

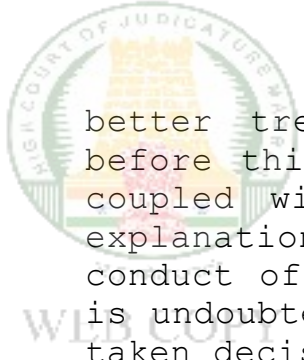


2.The writ petition is directed against the impugned order, dated 20.03.2017 passed by the Additional Director General of Police and Chairman of the Prison, Prison Department, Chennai, confirming the order passed by the Deputy Inspector General of Prison, Trichy Range, Trichy, dated 21.01.2016 and another order passed by the District Superintendent of Police and Borstal School, Pudukkottai, Pudukkottai District, dated 29.02.2012. Wherein it was consistently held by the three authorities that the petitioner repeatedly deserted the service and unauthorizedly absent from 14.05.2010 to 08.07.2010 again from 19.04.2011 to 12.06.2011 once again from 24.08.2011 to 07.11.2011 and from 12.01.2011 till the order of dismissal was passed on 29.02.2012.

3.The learned counsel appearing for the petitioner would submit that while he was serving at Borstal School, Pudukkottai for the period from 14.04.2010 to 11.11.2011, due to his continuous mental stress and family problem, he had to be away from the office without any notice. The said period of absent was treated as unauthorized absent. For which, a charge-memo was issued on 28.02.2012 calling upon the petitioner to submit his explanation. Admittedly, in the present case, the petitioner failed to give his explanation and thus he was not able to make use of the opportunity to explain his case that he was continuously under mental distress and family problem. Therefore, the third respondent after giving reasonable opportunity to the petitioner to give his explanation, finding no response whatsoever, has proceeded to pass the order of dismissal from service.

4.Aggrieved by the said order, he prepared an appeal before the second respondent explaining all the family problem resulting with the passing of the dismissal order, but the appellate authority also by an order, dated 21.01.2016 rejected the appeal on the ground that the appeal was not filed within 60 days. As against the said order, the petitioner filed an appeal before the Additional Director General of Police and Chairman of the Prison, the said authority also after going through the reasons given by the Original Authority by passing the order of dismissal concurring with the same conclusion reached by the appellate authority, dismissed the said appeal giving his findings that the petitioner has become incorrigible. As against the impugned orders passed by the respondents, the present writ petition has been filed.

5.The learned counsel appearing for the petitioner would further submit that the petitioner was facing lots of tension coupled with the family problems and hence, he was not able to visit the office. Therefore, the respondents could have imposed a lighter punishment without sending him out of service. When he was unauthorizedly absent for the aforementioned period, he was issued with the charge memo, dated 28.02.2012 calling upon him to submit his explanation whether he deserves any



better treatment. But the petitioner, who has been pleading before this Court that he was continuously under mental distress coupled with the family problem, has not even submitted his explanation to the charge memo, dated 28.02.2012. Therefore, the conduct of the petitioner in not giving explanation shows that he is undoubtedly incorrigible. Hence, all the three authorities have taken decision to dismiss him from service.

6. When the conclusion reached by the original authority has been affirmed by the appellate authority and further affirmed by the first respondent, this Court sitting under Article 226 of the Constitution of India, cannot interfere with the finding of facts arrived and confirmed by all the three authorities. Hence, this writ petition fails and stands dismissed. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar(AD-II)

/True Copy/

Sub Assistant Registrar

To

1. The Additional Director General of Police and
Chairman of the Prison,
Prison Department,
Chennai.
2. The Deputy Inspector General of Prison,
Trichy Range,
Trichy.
3. The District Superintendent of Police and
Borstal School,
Pudukkottai,
Pudukkottai District.

+1cc to Mr.Veera Associates, Advocate in SR.No.63642

+1cc to Special Government Pleader in SR.No.63721

am

AE/MR KKR/SAR1/17.07.2017/3P/6C

W.P. (MD) No.12433 of 2017
05.07.2017