



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.03.2017

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THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P. (MD) .No.4648 of 2017

and

W.M.P. (MD) Nos.3724 and 3725 of 2017

S.Kameswaran (PC-2558),
(Removed from service),
S/o.S.Shanmuganathan,
(T.S.P. VI Bn., Battalion),
B3/4, New Quarters, Reserve Line,
Madurai-625 014.

: Petitioner

Vs.

1. The Inspector General of Police,
(Armed Police),
T.S.P. 1 Battalion (Camp),
Trichy.
2. The Deputy Inspector General of Police,
Armed Police, Chennai,
(i/c) Armed Police, Trichy.
3. The Commandant,
T.S.P. VI Battalion,
Madurai.

: 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 pertaining to the impugned order Ref.Ths.Pa.No.42/2016 Rule 3(b) dated 30.12.2016 on the file of Respondent No.3, and the consequential Proceedings Ref.C.No.A2/Appeal-02/2017, dated 03.02.2017 on the file of Respondent No.2 and quash the same as illegal and consequently to direct the Respondents to re-instate the petitioner back in service with consequential benefits, within the time stipulated by this Court.

For Petitioner : Mr.S.Louis

For Respondents : Mr.C.Selvaraj

Special Government Pleader

**O R D E R**

This Writ Petition has been filed challenging the impugned order dated 30.12.2016 passed by the third respondent removing the petitioner from service and the order of the second respondent, appellate authority, dated 03.02.2017 and for a consequential direction to the respondents to re-instate the petitioner back in service with consequential benefits, within the time stipulated by this Court.

2.The brief facts that are necessary for the disposal of this Writ Petition are as follows:

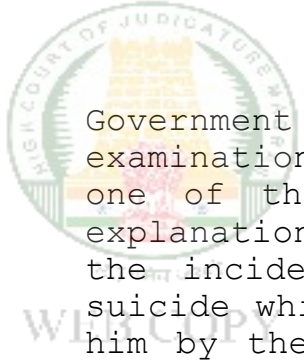
2.1.The petitioner was appointed as a police constable in the year 2011. While he was on duty as security guard in Bungalow No.13, within the campus of the residential quarters of the Hon'ble Judges of Madurai Bench of Madras High Court, a charge memo was issued to the petitioner on 01.08.2016 containing the following charges:

(i) On 09.06.2016 while he was on duty at Bungalow No.13 of the residential quarters of the Hon'ble Judges of the Madurai Bench of Madras High Court, at about 05.30 p.m., the petitioner made an attempt to commit suicide using the rifle which was given to him for security. By his conduct, he has misused the rifle which belong to the Government, with a bad intention and improper manner, frightening others and thereby committed a grave misconduct and causing damage to the reputation of the police department apart from failure in his duty.

(ii) A criminal case was registered in Crime No.818 of 2016 because of his conduct on 09.06.2016 and involvement of the petitioner in the crime, as a person working in the disciplined and reputed police department, has caused disrepute to the police department and hence, the petitioner has committed a grave misconduct.

(iii) Pursuant to the incident on 09.06.2016, the incident was published in almost all the television network and print media on 10.06.2016 with captions "நீதிபதி பங்களாவில் விபரீதம், துப்பாக்கியால் சுட்டு போலீஸ்காரர் தற்கொலை முயற்சி", "தன்னைத்தானே துப்பாக்கியால் சுட்டுக்கொண்ட போலீஸ்காரர் ஆஸ்பத்திரியில் அனுமதி", Since the petitioner being responsible for such publication, has committed a grave misconduct of causing disrepute to the whole police department in the State of Tamil Nadu.

2.2.Pursuant to the charges above referred to, framed under Rule 3(b) of the Tamil Nadu Police (Discipline and Appeal) Rules, 1955, enquiry proceedings was initiated against the petitioner. An Enquiry Officer was appointed. 12 witnesses were examined on the

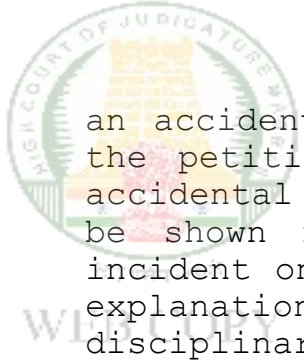


Government side and 22 documents were also marked. During examination of witnesses, the petitioner did not cross examine any one of the witnesses. However, the petitioner in his written explanation dated 30.09.2016 before the Enquiry Officer has admitted the incident and the charge that he made an attempt to commit suicide while he was on duty by using the rifle which was given to him by the department in connection with the duty. However, the petitioner explained the circumstances under which he was forced to do the same. He stated that the incident was on account of his family circumstances and the mental depression he had at that time due to serious financial crisis in his family.

2.3. Since the petitioner himself has admitted the misconduct, the Enquiry Officer submitted his report holding the petitioner guilty of all charges. The disciplinary authority namely the third respondent served a copy of the report of the Enquiry Officer on 17.11.2016 and gave an opportunity to the petitioner. The petitioner submitted his further explanation dated 23.12.2016. Even in his further explanation, the petitioner admitted his misconduct and stated that he regretted for the incident and pleaded admonition. After considering the report and the admission of the petitioner, the third respondent imposed punishment of removal from service by his proceedings dated 30.12.2016. As against the order of punishment, the petitioner preferred an appeal on 10.01.2017 to the second respondent. For the first time before the appellate authority, the petitioner came up with a new case that the firing was an accident and that his previous representations were made without his knowledge of their contents. Further, he stated that he was directed by the Enquiry Officer to write his explanation admitting the incident as an attempt to commit suicide so that he will be shown mercy. However, the appellate authority did not accept the petitioner's case and dismissed the appeal. The original authority also found that the petitioner made an attempt to commit suicide even earlier on two occasions and that the petitioner cannot be shown any indulgence or sympathy as his misconduct is grave in nature. The appellate authority also confirmed the findings of the disciplinary authority and held that the delinquent is not in a stable mind and finding way to commit suicide due to his family problems. It was observed by the appellate authority that while serving in a disciplined force, making attempt to commit suicide is a major offence and that it cannot be believed that the petitioner will not involve once again in such type of incident. As against the order of appellate authority, confirming the order of punishment of removal of service, the petitioner has filed the above Writ Petition.

3. Heard the learned Counsel for the petitioner and the learned Special Government Pleader appearing for the respondents.

4. The main ground on which the learned Counsel for the petitioner argued is that the petitioner did not try to commit suicide as it was alleged but the incident on 09.06.2016 was purely



an accident. It was further contended by the learned counsel for the petitioner that the petitioner was terribly shocked when the accidental firing occurred and that on the assurance that he would be shown mercy only if he gives a statement by admitting the incident on 09.06.2016 as an attempt to commit suicide, he gave the explanation in the manner as it has been recorded by the disciplinary authority. It is also argued by the learned Counsel for the petitioner that the punishment imposed is excessive and unjust. According to him, the impugned order of removal from service is shockingly disproportionate to the charges levelled against the petitioner and hence, the impugned order is liable to be set aside. It was further contended that the appellate authority failed to consider the petitioner's specific plea that the incident on 09.06.2016 was nothing but an accidental firing of rifle which cannot be construed as a serious misconduct. It was also submitted by the learned Counsel for the petitioner that the petitioner joined the police force with fond hopes as he discontinued even his studies to join the police department. Since the petitioner's removal from service would seriously affect his entire family as he has responsibilities, the learned Counsel for the petitioner prayed for accommodating the petitioner at least in any other clerical post.

5. The submission of the learned Counsel for the petitioner that the incident on 09.06.2016 was only an accidental firing, cannot be believed and the petitioner cannot be permitted to take this new plea which was never pleaded any time during the enquiry. In the affidavit filed in support of this Writ Petition, the petitioner has stated that he was forced to give a statement admitting the incident as an attempt to commit suicide by giving false hope. However, the fact remains that the petitioner even in his further explanation to the second show cause notice issued by the disciplinary authority has admitted his misconduct and prayed for admonition. If the petitioner is allowed to take this stand which is totally contradictory to his stand before the Enquiry Officer, it will be not only unethical but also against the well settled principles of law.

6. No domestic enquiry is necessary if the employee admits the charges. However, in the present case, enquiry was conducted meticulously and on the basis of the petitioner's own admission, the petitioner was found guilty of all the three charges. The finding is supported by evidence of other witnesses. The order of disciplinary authority and the appellate authority cannot be said to be arbitrary as the orders disclose adequate reasons for bringing to an end the services of the petitioner. It is not the case of the petitioner that there is violation of any procedure or infraction of any rule in the process of enquiry. The third respondent is competent to pass orders and no *mala fides* alleged against any one in this case.

7. Attempt to commit suicide due to depression over family issues shows the mental instability of the petitioner. As it has



been found by the authorities below, it is the third attempt of the petitioner to commit suicide and there is no guarantee that the petitioner would not involve in similar attempt in future. The petitioner being in service in the police department is expected to have commanding mental stability. The conduct of the petitioner is a very good ground for any wife to seek divorce against her husband. By the mental instability exhibited by the petitioner, the petitioner has posed a potential threat to his co-employees and even the Hon'ble Judges for whom he is expected to give a sense of security. Any act or conduct creating a reasonable risk to the safety of the co-employees has to be viewed seriously. The petitioner who has made at least three attempts to end his life, with the same mental instability is likely to use the same rifle if he is mentally disturbed by any other provoking circumstances. Consideration of public safety should outweigh the consequences of punishment to any individual employee. It is settled that physical violence or threat of physical violence is a serious misconduct. Causing injury to oneself in an attempt to commit suicide during the course of employment is an act prejudicial to the maintenance of order and undermines the discipline. No Court of law can take a lighter view in the case of indisciplined serious misconduct on the part of the employee especially a person serving in police department which is always considered to be a force / organisation meant for protection of public safety. A misplaced sympathy would pave way for calamitous results. As found in the charges, the misconduct alleged against the petitioner and proved in this case is certainly an act prejudicial to good order and discipline of the force.

8. For all the above reasons, this Court has no hesitation to dismiss this Writ Petition as one devoid of any merit. Hence, the Writ Petition is dismissed. However, there is no order as to costs. Consequently, connected W.M.P. (MD) Nos. 3724 and 3725 of 2017 are closed.

Sd/-
Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

1. The Inspector General of Police,
(Armed Police),
T.S.P. 1 Battalion (Camp),
Trichy.

2. The Deputy Inspector General of Police,
<https://hcservices.ecourts.gov.in/hcservices/>
Armed Police, Chennai,
(i/c) Armed Police, Trichy.



3. The Commandant,
T.S.P. VI Battalion,
Madurai.

+ 1 CC TO Mr.T.LAJAPATHI ROY, ADVOCATE IN SR No. 16055
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 16198

SRM

TE/RR/SAR-IV : 21/04/2017 : 6P/6C

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