

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.03.2018

CORAM:

THE HON'BLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HON'BLE MR.JUSTICE P.VELMURUGAN

W.A.No.1296 of 2017 and
C.M.P.No.18035 of 2017

B.Vignesh ...Appellant/Petitioner

Vs

1. The Superintendent of Police,
Railways, Ponmalai, Trichy.
2. The Inspector of Police,
Nagapattinam Railway Police Station,
Nagapattinam.
3. The Inspector of Police,
Koradacherry Police Station,
Thiruvavarur District.Respondents/Respondents

Prayer:-

Writ Appeal filed under Clause 15 of Letters Patent Act, to set aside the order passed by this Court in W.P.No.5911 of 2017 dated 01.08.2017.

W.P.No.5911 of 2017:-

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus to call for records hereby to the Impugned order of the first respondent dated 11.01.2017 in his proceedings D.O.No.16/17 in C.No.F.1/0539/17 and to quash the same. Consequently directing the 1st Respondent to re-instate the petition in service with all monetary benefits.

For Appellant : Mr.C.Prabakaran

For Respondents : Mr.V.Anandhamurthy,
Additional Government Pleader

JUDGMENT

(Judgment of the Court was delivered by K.K.SASIDHARAN, J.)

The appellant was suspended from service by the Superintendent of Police-Railways by order dated 11.01.2017 on account of his involvement in a criminal case. The order was challenged by the appellant before the Writ Court in W.P.No.5911/2017. The learned Single Judge granted interim order in favour of the appellant. On the basis of the said order, his suspension was revoked. Thereafter, the Writ Petition was dismissed by order dated 01.08.2017. The appellant immediately filed this appeal. Since the appeal was pending, further action was not taken by the respondents, to put him under suspension once again.

2. The order dated 01.08.2017 in W.P.No.5911/2017 is under challenge in this intra court appeal.

3. The learned Counsel for the appellant submitted that it was only on account of the involvement of the appellant in a property dispute and the related criminal case, action was taken by the 1st respondent. The learned Counsel submitted that the respondents have not initiated any disciplinary proceedings against the appellant so far. The learned Counsel further submitted that pursuant to the order passed by the learned Single Judge, the suspension order was revoked and the appellant is working as a Police Constable even today. According to the learned Counsel, the appellant would co-operate with the respondents, in case, disciplinary proceedings are initiated.

4. We have also heard the learned Additional Government Pleader on behalf of the respondents.

5. The factual matrix indicates that there was a boundary dispute between the two families. There was a complaint preferred by the adjacent land owner and on the basis of the said complaint, a case in Crime No.450/2016 was registered on the file of Koradacherry Police Station. There was another case in Crime No.406/2016. It appears to be a case and counter case between the two families. The police arrested the appellant along with the other accused. The appellant was released by the learned I Additional District and Sessions Judge (PCR), Thanjavur by order dated 4.2.2017 in CrI.M.P.No.314 of 2017.

6. The 1st respondent, immediately, on receiving the information that the appellant was arrested by the police and he was remanded passed an order of suspension dated 11.01.2017.

7. The appellant challenged the order of suspension in

W.P.No.5911/2017. The learned Single Judge on the basis of the prima facie case made out by the appellant, stayed the operation of the suspension order. Subsequently, the 1st respondent revoked the suspension and the appellant is working as a Police Constable.

8. When the Writ Petition was subsequently taken up for final hearing on 01.08.2017, the learned Single Judge dismissed the Writ Petition on the ground that the public servant should be obedient and he should not involve in criminal cases.

9. We have also perused the entire materials available on record.

10. It is found that on account of the dispute with regard to the boundary between the two families, there were two cases. The appellant was also involved in one such case.

11. The learned Single Judge immediately filing the Writ Petition in W.P.No.5911/2017 granted interim order to the appellant. The order was in force till the disposal of the Writ Petition on 01.08.2017. The Appellant immediately thereafter filed the intra court appeal. The fact remains that from the date of passing the interim order, the appellant has been working on account of revoking the order of suspension.

12. After hearing the counsel for the appellant and the Government Advocate on behalf of the State, we are of the view that interim protection given by the learned Single Judge in W.P.No.5911/2017 must be continued. The appellant must co-operate with the respondents for an early disposal of the disciplinary proceedings, in case, any such proceedings are initiated against him. We also make it clear that this order would not stand in the way of the respondents from transferring the appellant to any other station, if administrative exigencies so required.

13. The Intra Court Appeal is allowed as indicated above. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

1. The Superintendent of Police,
Railways, Ponmalai, Trichy.
2. The Inspector of Police,
Nagapattinam Railway Police Station,
Nagapattinam.
3. The Inspector of Police,
Koradacherry Police Station,
Thiruvarur District.

+1cc to Mr.C.Prabakaran, Advocate, S.R.No.24148

+1cc to the Government Pleader, S.R.No.24309

W.A.No.1296 of 2017

AD(CO)
CS/10/05/18



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