

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.7.2018

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.A.No.1507 of 2018

V.Murthy

Appellant

Versus

- 1 The Additional Chief Secretary to
Government
Home (POL XV) Department
Home Department Fort St. George
Chennai 600 009
- 2 Director General of Police
Chennai 600 004
- 3 Inspector General of Police
Armed Police Trichy 12
- 4 Deputy Inspector General of
Police
Armed Police Chennai 600 010

Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 9.2.2018 passed in W.P.No.2884 of 2018 on the file of this court.

WP.NO.2884/2018:

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, calling for the records in G.O.(D) No.1081 Home (Pol.XV) Department dated 22.08.2017 and quash the same and direct the first respondent to consider the case of the petitioner with reference to the proportionate punishment as directed by this Hon'ble Court by order dated 3.11.2014 passed in W.A.No.2167 of 2012.

For appellant : Mr.S.Sadasharam

For respondent : Mr.P.S.Sivashanmugasundaram,
Special Government Pleader

JUDGMENT

(Judgment of the court was made by M.DHANDAPANI, J.)

The intra-court appeal is filed by the writ petitioner challenging the order passed by the learned Single Judge in dismissing the writ petition and thereby declining to entertain the writ petition filed by the appellant as against the impugned order removing him from service.

2. It appears that the appellant, a Civilian employee of the Police Department was subjected to disciplinary proceedings on the allegation that he had collected some money as commission, which ended in removal from service, and ultimately withstood the appeal filed by him and the mercy petition which he filed subsequent to a direction issued by a Division Bench in the writ appeal filed by him. As against the non-entertaining of the mercy petition by way of the impugned G.O., the appellant had filed the writ petition.

3. We have perused the order passed by the learned Single Judge and the materials placed on record.

4. It appears that even prior to disposal of the mercy petition, the appellant had filed a writ petition in W.P.No.5433 of 2008, at a premature stage and invited certain observation against him. A Division Bench, while disposing of the writ appeal filed against such order, directed for consideration of the mercy petition without being influenced by such observation.

5. Of course, the Division Bench of this court, in Writ Appeal No.2167 of 2012, filed by the appellant herein on the earlier occasion had directed the Government to consider the appeal/mercy petition filed by him, without reference to the findings rendered by the learned Single Judge insofar as the appellant in paragraph 7 of the order in W.P.No.5433 of 2008. Subsequent to that, while disposing of the mercy petition, the Government had independently considered the case of the appellant, however, rejected the mercy petition, having found that no new ground has been putforth by the appellant for considering his mercy petition.

6. In the totality of the circumstances viz., the case of the appellant was considered by the Government in the mercy petition and the gravity of the charges viz., misuse of official power to create false pay certificate for obtaining bank loan and getting commission from another person for assisting him in getting bank loan, etc., we find that no lenient view is

warranted in the case of the appellant. Accordingly, the writ appeal is dismissed, confirming the order passed by the learned Single Judge. No costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

ssk.

To:

- 1 The Additional Chief Secretary to
Government
Home (POL XV) Department
Home Department Fort St. George
Chennai 600 009
- 2 Director General of Police
Chennai 600 004
- 3 Inspector General of Police
Armed Police Trichy 12
- 4 Deputy Inspector General of
Police
Armed Police Chennai 600 010

+1cc to Mr.S.Sadasharam, Advocate sr.no.49820
+1cc to Government Pleader sr.no.50361

W.A.No.1507 of 2018

kgk(co)
nr 06/09/2018

सत्यमेव जयते

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