

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.07.2018

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.48257 of 2006

K.Arumugam

... Petitioner

Vs.

- 1.The Commissioner of Security
Bureau of Civil Aviation Security,
A Wing, I, II, III Floor, Janpath Bhavan,
Janpath, New Delhi.
- 2.The Additional Commissioner of Security
Bureau of Civil Aviation Security,
A Wing, I, II, III Floor, Janpath Bhavan,
Janpath, New Delhi.
- 3.The Deputy Director, (Adm.)
Bureau of Civil Aviation Security,
A Wing, I, II, III Floor, Janpath Bhavan,
Janpath, New Delhi.
- 4.The Regional Deputy Commissioner of Security
Southern Region,
Bureau of Civil Aviation Security,
Chennai Airport,
Chennai - 27.

5.Mr.Sharad Srinivas

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records relating to the order passed by the first respondent in his order No.A.12018/2/2006-Admn dated 14.11.2006 confirming the order passed by the fourth respondent in his order No.C/DCS/Est. 06/598-600 dated 14.08.2006 and quash the same and to direct the respondent to refund the salary to the petitioner with all benefits from 14.08.2006 to till date.

For Petitioner : Mr.M.Md.Ibrahim Ali

For Respondents: No Appearance for R1 to R4

R5 - Disd. Vide order dated 8/9/09

O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Certiorarified Mandamus to call for the records relating to the order passed by the first respondent in his order No.A.12018/2/2006-Admn dated 14.11.2006 confirming the order passed by the fourth respondent in his order No.C/DCS/Est.06/598-600 dated 14.08.2006 and to quash the same and to direct the respondent to refund the salary to the petitioner with all benefits from 14.08.2006 to till date.

2.The case of the petitioner is that he joined as Sepoy in the Indian Army on 05.05.1982 and after having served for 17 years, the petitioner was retired from the Indian Army on 31.05.1999. Thereafter, he joined as Head Constable (Dog Handler) with effect from 04.06.1999 in the Bureau of Civil Aviation Security and his services were regularized with effect from 06.04.2001.

3.It is the further case of the petitioner that on 18.08.2005, as per the direction from the Head Quarter, proficiency Odor Test was conducted by the fifth respondent and it was spoiled because of the direction of the fifth respondent to take the female dog Asha. However, the fifth respondent placed the petitioner under suspension due to personal enmity on 07.02.2006 under Rule 10 (1) of Central Civil Services (Classification, Control and Appeal Rules), 1965 (hereinafter referred to as 'Rules'). On 10.04.2006, a memorandum under Rule 16 of the Rules was issued by the fourth respondent.

4.It is the further case of the petitioner that on the same day another charge memo under Rule 14 of the Rules was also issued with the following Article of charges:

"ARTICLE OF CHARGE I

That Shri K.Arumugam, Dog Handler while posted as Dog Handler in Dog Squad in Bomb Detection and Disposal Squad, in the office of the Regional Deputy Commissioner of Security Civil Aviation, Bureau of Civil Aviation Security, Chennai had been detailed on 18.08.2005 for rendering assistance in the conduct of odour proficiency test of Dogs at Departure Terminal, Chennai Airport. During the test when the sniffer dog Goldie failed to respond to his commands when asked by DCOS (BDDS) why he was not giving instructions, he replied in a rude manner and misbehaved with him in public. When instructed by DCOS to leash the dog and make it sniff the baggages he leashed the dog, when the dog hesitated to

walk he roughly jerked the leash pulling the unwilling dog by the neck and ill-treating it. When DCOS(BDDS) asked Shri K.Arumugam to hand over the leash to SI P.Singh and leave, he left with a defiant posture.

Such behaviour of Shri K.Arumugam amounted to his failure to perform the duty assigned to him and he did not maintain devotion to duty and also indulged in the behaviour unbecoming of a government servant. In spite of repeated advice/warning, he did not improve and his behaviour deteriorated thereby contravening Rule 3(ii) and (iii) and 3A(a) of CCS (Conduct) Rules 1964.

ARTICLE OF CHARGE II

That Shri K.Arumugam, Dog Handler while being posted as Dog Handler in Bomb Detection and Disposal Squad, in the office of the Regional Deputy Commissioner of Security Civil Aviation, Bureau of Civil Aviation Security, Chennai parked his Ambassador Car No.TN-55B 5353 near the explosive store inside the Bomb Squad premises without obtaining proper permission which was considered dangerous by DCOS(BDDS). When advised by DCOS(BDDS) to park his car outside the premises at a safer place, Shri K.Arumugam exhibited defiant and confrontationist attitude and refused to obey the orders. By parking the car near the explosive stores inside the premises and refusing to obey the orders to park his vehicle outside the premises at a safer place, Shri K.Arumugam exposed the office complex to a risky situation and also behaved in a manner unbecoming of a government servant. In spite of repeated advice/warning, he did not improve and his behaviour deteriorated thereby contravening Rule 3(ii) and (iii) and 3A (a) of the CCS (Conduct) Rules 1964.

ARTICLE OF CHARGE III

That Shri K.Arumugam, Dog Handler while being posted as Dog Handler in Bomb Detection and Disposal Squad, in the office of the Regional Deputy Commissioner of Security Civil Aviation, Bureau of Civil Aviation

Security, Chennai had on 04.02.2006 intimidated Major Shard Srinivas, DCOS(BDDS) by using filthy and vulgar language and also brandishing a metal rod and banging the same on the floor. He also used the vulgar and threatening language against the family of Shri Srinivas. He again intimidated Shri Srinivas, DCOS(BDDS) on 7.2.2006. In spite of suspension on 7.2.2006 Shri K.Arumugam, Dog Handler continued to enter the dog kennel every day till 17th Feb. 2006. Thus, Shri.K.Arumugam behaved in a manner unbecoming of a government servant and in spite of repeated advice/warning, he did not improve and his behaviour deteriorated thereby contravening Rule 3(ii) and (iii) and 3A (a) of the CCS (Conduct) Rules 1964."

5.It is the further case of the petitioner that thereafter enquiry was conducted and the Enquiry Officer submitted the report as partially proved, for which, the petitioner submitted a detailed representation on 18.07.2006. However, the fourth respondent vide order dated 14.08.2006 awarded the punishment of reduction of pay by one stage from Rs.3,710/- to Rs.3,625/- for a period of one year and no increment for the said period. Aggrieved by the said order, the petitioner filed appeal before the first respondent and the said appeal was rejected on 14.11.2006. Hence, the petitioner has come forward with this writ petition.

6.The petitioner was issued charge memo alleging that during the odour proficiency test of Dogs when the sniffer dog Goldie failed to respond to his commands and when it was asked by his superior Officer, he replied in a rude manner and misbehaved with him in public; parked his Ambassador Car near the explosive store inside the Bomb Squad premises without obtaining proper permission which was considered dangerous by his superior Officer. When advised by his superior Officer to park his car outside the premises at a safer place, he exhibited defiant and confrontationist attitude and refused to obey the orders; and, on 04.02.2006 intimidated his superior Officer by using filthy and vulgar language and also brandishing a metal rod and banging the same on the floor. He also used the vulgar and threatening language against the family of his superior Officer.

7.The disciplinary Authority initiated disciplinary proceedings and conducted enquiry. Thereafter, the disciplinary Authority imposed the minor punishment of reduction of pay by one stage from Rs.3,710/- to Rs.3,625/- for a period

of one year and no increment for the said period. The said punishment was confirmed by the Appellate Authority.

8. When two fact finding Authorities have exercised their discretion and awarded only a minor punishment, without any materials, the writ Court cannot interfere with their findings in a mechanical manner. The writ petition is accordingly dismissed. No costs.

Sd/-
Deputy Registrar (CS)

//True Copy//

Sub Assistant Registrar

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To

1. The Commissioner of Security
Bureau of Civil Aviation Security,
A Wing, I, II, III Floor, Janpath Bhavan,
Janpath, New Delhi.
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4. The Regional Deputy Commissioner of Security
Southern Region,
Bureau of Civil Aviation Security,
Chennai Airport,
Chennai - 27.

+1cc to the Government Pleader, S.R.No.44936

W.P.No.48257 of 2006

TR(18/07/2018)