



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.06.2018

WEB COPY

CORAM

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD) No.12303 of 2018

S.Sureshbabu

: Petitioner

Vs.

1. The Deputy Inspector General of Police,
Police Training College,
Ashock Pillar,
Chennai.

2. The Commandant,
TSP 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 relating to the order passed by the second respondent vide P.R.No.54/2016 dated 07.11.2017 and quash the same as illegal and direct the second respondent to reinstate the petitioner in the post of Constable Grade II in the respondent department within the period that may be stipulated by this Court.

For Petitioner : Mr.G.V.Vairam Santhosh
For Respondents : Mrs.S.Srimathy
Special Government Pleader

O R D E R

The prayer sought for in this Writ Petition is for a Writ of Certiorarified Mandamus, to call for the records relating to the order passed by the second respondent vide P.R.No.54/2016 dated 07.11.2017 and quash the same as illegal and direct the second respondent to reinstate the petitioner in the post of Constable Grade II in the respondent department.

2.Heard Mr.G.V.Vairam Santhosh, learned Counsel appearing for the petitioner and Mrs.S.Srimathy, learned Special Government Pleader appearing for the respondents.

<https://hcservices.ecourts.gov.in/hcservices/>

3.The petitioner has challenged the impugned order dated

07.11.2017, by which, the petitioner has been removed from service by the respondents.

4. Though, number of grounds have been urged by the learned Counsel for the petitioner against the impugned order, learned Special Government Pleader appearing for the respondents would point out that, as against the impugned order passed by the original authority, appeal could have been preferred to the appellate authority and thereafter, revision could also be filed by way of mercy petition. Without exhausting all these remedies, the petitioner has straightaway approached this Court, invoking Article 226 of the Constitution of India.

5. I find force in the said contention made by the learned Special Government Pleader appearing for the respondents.

6. In that view of the matter, when a query was raised, the learned Counsel for the petitioner would submit that, the petitioner would be advised to prefer an appeal against the impugned order. However, he would submit that the respondent shall not reject it *in limini*, on the ground of delay / laches.

7. In view of the aforesaid facts and circumstances of the case, this writ petition is disposed of with the following observation and direction:

7.1. Since the impugned order is an order of removal from service against the petitioner, he could very well file an appeal to the appellate authority. Without exhausting the same, the petitioner cannot invoke the extraordinary jurisdiction of this Court, as the law is that if there is a statutory alternative remedy available, the litigant, without exhausting the same, cannot invoke the extraordinary jurisdiction of the High Court, invoking Article 226 of the Constitution of India. Therefore, this Writ Petition cannot be entertained. Hence, it is liable to be dismissed.

7.2. However, as pointed out by the learned Counsel for the petitioner, there may be a chance that even if the appeal is filed, that may be rejected *in limini*, on the ground of delay / laches.

7.3. To meet the ends of justice, if any appeal is filed against the impugned order by the petitioner, the same shall be entertained by the appellate authority without rejecting the same on the ground of delay / laches, provided such appeal is filed by the petitioner within two weeks from today. If no such appeal is filed within this time, and if any belated appeal is filed, it is open to the appellate authority to reject the same even on the ground of delay / laches.



8. With these observations and directions, this Writ Petition is disposed of. However, there shall be no order as to costs.

WEB COPY

Sd/-
Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar (CS-IV)

To

1. The Deputy Inspector General of Police,
Police Training College,
Ashock Pillar,
Chennai.

2. The Commandant,
TSP VI Battalion,
Madurai.

+ 1 CC TO Mr.G.V.VAIRAM SANTHOSH, ADVOCATE IN SR No. 67685
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 67780

MR
TE/PM/SAR-4 : 12/10/2018 : 3P/5C

ORDER MADE IN
W.P. (MD) No. 12303 of 2018
11.06.2018