



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.01.2018

CORAM :

WEB COPY

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

W.P(MD)Nos.5576 & 11108 of 2017

and

WMP(MD)Nos.4466, 4467 & 8518 of 2017

R.Vijayakumar

... Petitioner
in both writ petitions

Vs.

The State rep by
The Superintendent of Police,
Trichy District Police Office,
Subramaniyapuram, Trichy.

... Respondent
in both writ petitions

Prayer in WP(MD)No.5576 of 2017 : This Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order passed by the respondent in D.O.166/2017 C.No.A1/0338/2017 dated 03.03.2017 and quash the same as illegal, arbitrary and against the principles of natural justice with respect to petitioner and consequently direct the respondent to retain the petitioner in the Kallakudi Police Station, Trichy District.

Prayer in WP(MD)No.11108 of 2017 : This Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records pertaining to the impugned orders passed by the respondent in Na.Ka.No.K3/LR.17818/2017, dated 01.06.2017 and Na.Ka.No.K3/Viduppu-LR.17818/17 dated 01.06.2017 and Na.Ka.No.K3/Viduppu-Lr.17818/17 dated 01.06.2017 dated 01.06.2017 and quash the same as illegal, arbitrary and against the principles of natural justice.

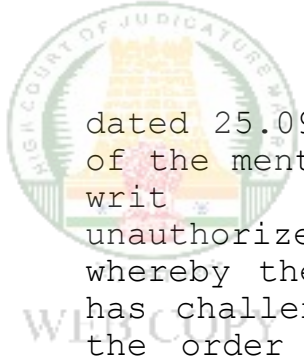
For Petitioner
in both writ petitions : Mr.S.Karthick Subramanian

For Respondent
in both writ petitions : Mrs.S.Srimathy,
Special Government Pleader

COMMON ORDER

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

The writ petitioner is employed as Grade.II Police Constable in Trichy District. He was visited with successive orders of transfer



dated 25.09.2016, 12.12.2016 and 03.03.2017. Probably, on account of the mental strain caused by such frequent orders of transfer, the writ petitioner appears to have remained unauthorizedly absent. It led to passing of order dated 01.06.2017 whereby the writ petitioner was declared as a deserter. The same has challenged in WP(MD)No.11108 of 2017. He has also questioned the order of transfer dated 03.03.2017 in WP(MD)No.5576 of 2017 whereby he was transferred from Kallakudi to Thuvarangurichi Police Station.

2.In the affidavit filed in support of these writ petitions, the petitioner had made some unnecessary remarks on the superior officers. When this Court pointed out the sheer inappropriateness of the said averments, the writ petitioner not only realised his mistake and filed an affidavit withdrawing those averments, but also he assured that he would not repeat such a mistake in future.

3.Since the writ petitioner had realized his mistake, this Court is of the view that the case of the petitioner can be considered indulgently. The writ petitioner did not willfully remain absent. It is only on account of the frequent transfers visited on him, he had remained absent unauthorizedly. Therefore, he cannot be declared as a deserter.

4.The order dated 01.06.2017 declaring the writ petitioner as a deserter is quashed. The petitioner had been transferred to Thuvarangurichi Police Station. The petitioner is directed to join in the said police station. The petitioner has given representation dated 06.03.2017 to the respondent for posting him in Lalgudi Town. It is open to the respondent to consider the same and pass appropriate orders.

5.In the result, WP(MD)No.11108 of 2017 is allowed while the WP(MD)No.5576 of 2017 is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(W)

/True Copy/

Sub-Assistant Registrar

To
The Superintendent of Police,
Trichy District Police Office,
Subramaniyapuram, Trichy.

+2 ccs to Mr.S.Karthick Subramanian, Advocate, SR.Nos.42792 and 42793
skm
RL/4C/2P/CVC/SAR2/26/2/2018