



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 06.11.2019

CORAM :

THE HONOURABLE MR.JUSTICE SUBRAMONIUM PRASAD

W.P.No.10365 of 2013

Mr.R.Lakshmi

... Petitioner

Vs

1.The Commissioner of Police,  
Coimbatore City,  
Coimbatore - 18.

2.The Inspector of Police,  
Armed Reserve,  
Coimbatore City,  
Coimbatore - 18.

... Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of 1st respondent herein made in CPO-1132/2012, C.No.NI/37341/2012, dated 07/08/2012 and quash the same and further direct the respondents to reinstate the petitioner with full back wages and continuity of service.

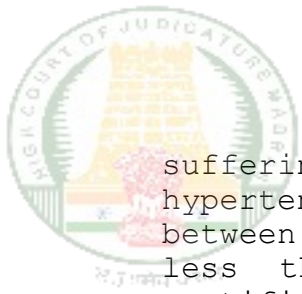
For Petitioner : Mr.S.Gopinathan

For Respondents: Mr.A.Zakir Hussain,  
Government Advocate

O R D E R

The instant writ petition is for a writ of Certiorarified Mandamus calling for the records of 1st respondent herein made in CPO-1132/2012, C.No.NI/37341/2012, dated 07/08/2012 and quash the same and further direct the respondents to reinstate the petitioner with full back wages and continuity of service.

2.The petitioner was appointed as a part time sweeper in 1976 in the District Police Office, Coimbatore. She was later given daily wages full time from 1997. Her services were regularized in the year 2009. The petitioner states that she was



suffering from cervical Spondylitis, Periarthritis Shoulder with hypertension and therefore, she was not able to attend duty between 03.03.2011 to 31.06.2011, ie., for a period slightly less than four months. The petitioner had got a fitness certificate that she was fit to resume duty on 01.07.2011. The petitioner states that she was directed to appear before the Medical Board to ascertain as to whether her illness was genuine or not. The petitioner states that she went to the Coimbatore Medical College Hospital for medical examination on 27.07.2011, however, she was not examined by the Medical Board. The petitioner states that she received the impugned order dated 07.08.2012 terminating her from service. Hence, the instant writ petition has been filed.

3.The respondents have filed a counter. In the counter, the respondents have stated that the petitioner did not appear before the Medical Board for medical examination, which was conducted on 27.07.2011. It is also stated in the counter that the petitioner was directed to appear before the Deputy Commissioner of Police, Armed Reserve, Coimbatore City. She appeared before him on 27.02.2012 and expressed her unwillingness to continue in service. It is stated that the reason given by her for being absent for nearly four months was not satisfactory. Hence, the Deputy Commissioner of Police, Armed Reserve, Coimbatore City has recommended for termination of her service and she was accordingly terminated from service vide CPO-1132/2012, C.No.NI/37341/2012, dated 7.8.2012.

4.Heard, the learned counsel for the parties.

5.The learned counsel for the petitioner states that after working in the Department for more than 33 years, the petitioner has been terminated on the ground of unauthorized absence for about four months. According to the learned counsel for the petitioner no enquiry was conducted. He would state that the medical certificate given by the petitioner was not considered and the termination is contrary to the principles of natural justice and the punishment is not in commensurate to the misconduct alleged.

6.On the other hand, the learned counsel for the respondents would state that it is a case of gross negligence and dereliction of duty on the part of the petitioner. He would state that even before the Deputy Commissioner of Police, the



petitioner has expressed her unwillingness to continue with her work. He would therefore plead that the order of termination of service need not be interfered.

7. Admittedly, no enquiry was conducted. The termination is only on the ground that the petitioner was absent without any permission from 03.03.2011 to 31.06.2011. The petitioner has given a medical certificate issued by the Coimbatore Medical College Hospital. The Government Doctor has stated that the petitioner has taken treatment for cervical spondylitis, periarthrititis shoulder with hypertension. No doubt, the petitioner did not appear before the medical Board, but, that by itself does not imply that the medical certificate produced by her are false. Even the unauthorized leave is only for less than a period of four months. Unauthorized leave does not amount to desertion or willful absence from duty.

8. This Court is of the view that the punishment is not commensurate to the misconduct alleged. The impugned order is therefore set aside and the matter is remanded back to the respondent no.1 to consider the case of the petitioner and pass any suitable order of punishment commensurate to the misconduct alleged.

9. The writ petition is disposed of in the above terms. The respondent no.1 is directed to consider the case of the petitioner and pass appropriate orders within a period of 16 weeks from the date of receipt of a copy of this order. It is made clear that the petitioner is not entitled to any backwages. However, would be entitled for continuity of service for the purpose of pension. No costs.

Sd/-  
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

tsg

To

1. The Commissioner of Police,  
Coimbatore City,  
Coimbatore - 18.

3/4



2.The Inspector of Police,  
Armed Reserve,  
Coimbatore City,  
Coimbatore - 18.

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+1cc to Government Pleader SR.NO. 92474  
+1cc to Mr.S.Gopinathan, Advocate sr.92215

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kk(co)  
nr 06/01/2020