

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.03.2019

CORAM

THE HON'BLE MR. JUSTICE M.S.RAMESH

W.P.No.26673 of 2004

- 1.Meenakshi Sundaram (deceased)
- 2.M.S.Indhulakshmi
- 3.Sujatha
- 4.Minor M.I.Poojalakshmi
rep. by her mother M.S.Indhulakshmi

Petitioners 2 to 4 are substituted vide
Court order dated 17.02.2009 in
WPMP.593/2008 in WP.26673/2004 by AKJ.

... Petitioners

Vs.

- 1.The Deputy Inspector General of Police,
Armed Police,
Chennai-10.
- 2.The Commandant,
TSP III Battn., Kovaipudur,
Coimbatore.

... Respondents

Prayer:Petition filed under Article 226 of The Constitution of India praying to issue a writ of Certiorarified Mandamus, calling for the records of the first respondent in connection with the impugned order issued by the first respondent in connection with the order of removal from service imposed on the petitioner in PR.No.10 of 2003 dated 28.01.2004 and quash the same and direct the respondents to reinstate the petitioner into service and with all consequential service monetary benefits and grant such other further relief.

For Petitioner : Mr.K.Venkataramani, Sr. Counsel
for Mr.Muthappan

For Respondents : Mr.S.Suresh Kumar
Government Advocate

O R D E R

The order under challenge in the present Writ Petition is for removal of the petitioner from service passed by the first respondent on 28.01.2004.

2. Heard Mr.K.Ventakaramani, learned Senior counsel for the petitioner and Mr.S.Suresh Kumar, learned Government Advocate appearing on behalf of the respondents.

3. Though the petitioner herein has raised several grounds challenging the findings of the Enquiry Officer, the Writ Petition deserves to be allowed on a single ground namely, that the impugned order is a one line order, without any proper discussion of the evidences as well as the various grounds raised by the petitioner in his further representation dated 19.01.2004.

4. On a perusal of the further representation dated 19.01.2004 given by the petitioner herein, it is seen that he has raised several grounds challenging the conduct of the enquiry itself and the evidences let in before the Enquiry Officer. Nevertheless, the first respondent herein, by a cryptic order, had accepted the findings of the Enquiry Officer and imposed a major punishment. There is a duty cast on the Disciplinary Authority to discuss the evidences let in before the Enquiry Officer as well as the grounds raised in the petitioner's further representation. In the absence of any consideration, it can only be said that the impugned order itself has been passed by non application of mind.

5. In normal circumstances, in the matter of this kind, this Court, shall remand back the matter to the first respondent for a fresh consideration of the findings of the Enquiry Officer as well as the grounds raised by the petitioner in the further representation. However, in the instant case, it is seen that the petitioner herein had passed away on 25.01.2007 and his legal representatives have been substituted in the Writ Petition. As such, no fruitful order can be passed by the first respondent herein. In these circumstances, the order of remand may not be proper.

6. In the light of the above discussions, I am of the view that the petitioner's punishment of removal from service can be converted into one of Compulsory Retirement in view of the illegal order passed by the first respondent herein.

7. For the foregoing reasons, the order dated 28.01.2004 in PR.No.10 of 2003 passed by the first respondent is hereby set aside. Consequently, the punishment imposed on the petitioner

is converted to Compulsory Retirement and the legal representatives of the petitioner herein would be entitled to claim any monetary and pensionary benefit that they may be entitled to. The Writ Petition stands ordered accordingly. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

DP

To

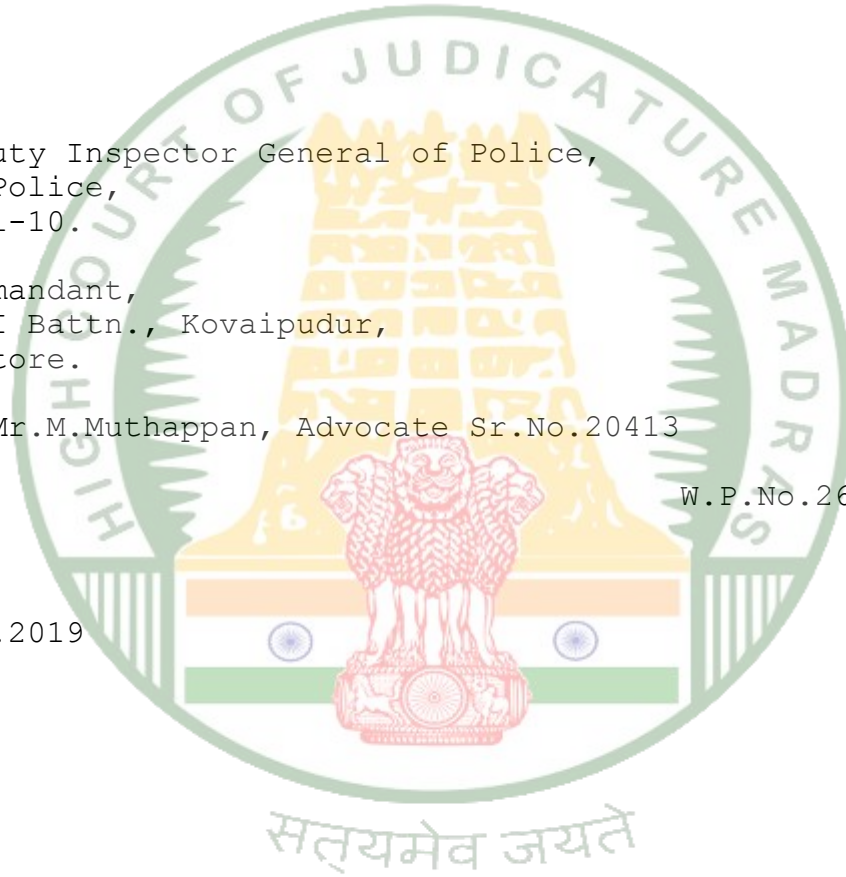
1.The Deputy Inspector General of Police,
Armed Police,
Chennai-10.

2.The Commandant,
TSP III Battn., Kovaipudur,
Coimbatore.

+1 cc to Mr.M.Muthappan, Advocate Sr.No.20413

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RSV(CO)
CSL/29.03.2019



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