

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders Reserved on	26/9/2019
Pronounced on	19/12/2019

C O R A M

THE HONOURABLE MR.JUSTICE SUBRAMONIUM PRASAD

W.P.No.1546 of 2010

B. Venkatesan (Deceased)

Tmt.V.Mahalakshmi
W/o.Late B.Venkatesan
No.5, Fourth Street
Mandavalli
Madhavaram
Chennai 60

...

Petitioner

(Substituted as Lrs of deceased
Petitioner B.Venkatesan, vide, order,
made in W.M.P.No.3323 of 2010, by
SPJ on 3/9/2019).

Vs

1. The Director General of Police
Chennai 600 004.
2. The Deputy Inspector General of Police
Dindigul Range
Dindigul.
3. The Deputy Commissioner of Police
Adyar District
Adyar
Chennai.

...

Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus, to call for the records relating to the second respondent's Proceedings made in PR-03/A2/2009 dated 2/2/2009 and as confirmed by the first respondent in RC.No.100054/AP.3 (3)/2009 dated 1/12/2009 to quash the same and consequently direct the respondents to extend all benefits both service and monetary.

For petitioner
For respondents

... Mr.L.Chandrakumar
... Ms.K. Bhuvaneshwari
Additional Government Pleader

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O R D E R

Instant writ petition has been filed, to quash the order passed by the Deputy Inspector General of Police, Dindigul Range, Dindigul, second respondent, in his Proceedings made in PR-03/A2/2009, dated 2/2/2009 and as confirmed by the Director General of Police, Chennai, first respondent, in RC.No.100054/AP.3(3)/2009, dated 1/12/2009 and consequently, direct the respondents, to extend all benefits both service and monetary.

2. By the impugned order, dated 2/2/2009, petitioner was awarded with a punishment of compulsory retirement. His mercy petition, dated 24/4/2009, has been rejected, on 1/12/2009. Petitioner joined the respondent as Grade - II Police Constable. He was departmentally proceeded with six grounds of charges.

Count in Charge - 01: In spite of having been married and begotten children you Mr.B.Venkatesan Gr.I.Constable.23045 had an illegal affair with one Sujatha, Woman Sub-Inspector of Police, and was living with her as husband and wife. This action is highly reprehensible conduct, violating Rule 23 (2) I of Tamil Nadu Police Subordinate Service Conduct Rules, 1964.

Count in Charge - 02: On 6/7/2006, you Mr.B.Venkatesan Gr.I.Constable 23045 had gone to J-3 Guindy Police Station and had quarrelled with the said Sujatha, Woman Sub-Inspector of Police by demanding a sum of Rs.3 lakhs from her and also indulged in an altercation with the brother of Sujatha which is an objectionable act.

Count in Charge - 03: When you were on duty around 13.00 hours in the Secretariat on 22/8/2006 while the Legislature was on session, you had indulged in the act of quarrelling with one Mr.Murali, D.13 Kunrathoor Police Station who was on foreign duty in the Secretariat, on account of your previous enmity and thereby causing a scene of criminal breach of peace in that area which is a repugnant action.

Count in Charge - 04: On 26/9/2006 at about 20.00 hours when you departed to the office of the Assistant Commissioner of Police, Guindy Range, you had indulged in the act of quarrelling with Sujatha, the Sub-Inspector of Police, who was seated in the room of the Writer of Assistant Commissioner and demanded a sum of Rs.2 lakhs from her. You had also created a chaotic situation in the office causing interruption of work by drenching yourself in petrol and calling Sujatha too to die along with you in the public place which is highly a condemning action.

Count in Charge - 05: The action of unauthorised absence from foreign duty without any intimation on 13/10/2006 at 9.00 a.m., in the morning during the Roll Call in the Central Crime Branch Authorities is a condemnable and an indisciplinary act.

Count in charge - 06: On 23/10/2006, at about 15.00 hours, you effected a criminal trespass to the house of William at No.19, Manthope, 2nd Street, Maduvankarai, Guindy, Chennai 600 032 where Sujatha resides and demanded a sum of Rs.20,000/- and battered her. In regard to this, Sujatha filed a case in J 3 Guindy Police Statio Cr.No.1813/2006, under Sections 448, 342, 385, 323 and 506 (2) IPC r/w. 3 and 4 of the Prohibition of Harassment of Women Act and was registered. The act of you being arrested on 24/10/2006 and remanded to judicial custody is a reprehensible one.

3. He was initially suspended and his suspension was revoked. During pendency of the writ petition, petitioner passed away. Though on the death of the petitioner, writ petition was abated, legal representatives have been substituted only to consider as to whether a writ can be passed against the respondents, for releasing pensionary benefits, in the writ petition.

4. This Court, while exercising extraordinary jurisdiction, under Article 226 of the Constitution of India, though can mould the relief in favour of the petitioner, it cannot pass a writ which goes completely beyond pleadings and the prayer sought for. Only the Hon'ble Supreme Court, while exercising its powers, under Article 142 of the Constitution of India, can pass such orders, which is necessary for doing complete justice, in any case or matter, pending before it. This power is not available under Article 226 of the Constitution of India. Petitioner has passed away leaving behind his wife, mother and two daughters. In the instant writ petition, petitioner has challenged only the findings arrived at by the Enquiry Officer and the orders of punishment by the disciplinary authority and the dismissal of the mercy petition. In this writ petition, relief of grant of pension to the family members, cannot be given.

5. This Court however, sincerely hopes that respondents would not wait for the wife and children, to file a fresh writ petition, to claim the benefits and would release the pensionary and other benefits due to the family of the petitioner, without any delay. The respondents will act as a model employer. With this hope, this writ petition is dismissed. No costs.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

To

1. The Director General of Police
Chennai 600 004.
2. The Deputy Inspector General of Police
Dindigul Range
Dindigul.
3. The Deputy Commissioner of Police
Adyar District
Adyar
Chennai.

+1 cc to Government Pleader Sr.No. 106225

W.P.No.1546 of 2010

A.SK(27/01/2020)



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