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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2019

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.32836 and 32838 of 2019

And

W.M.P.Nos.33261 and 33262 of 2019

A.Sankarapandi

... Petitioner in both W.Ps.

Vs.

1.The Deputy Commissioner of Police,
Armed Reserve - I,
Pudupet,
Greater Chennai Police,
Chennai - 600 002.

2.The Assistant Commissioner of Police - I,
Armed Reserve - II,
St.Thomas Mount,
Greater Chennai Police,
Chennai - 600 016.

... Respondents in both W.Ps.

Prayer in W.P.No.32836 of 2019:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records relating to the proceedings of the 1st respondent dated 22.10.2019 in Tha.Ko.No.381/Tha.Pi/2(1)/2017, Rule 3(a), enclosing enquiry report dated 02.10.2019, quash the same, and consequently direct the respondents to consider the Judgment of the XVIII Additional Sessions Judge, City Civil Court, Chennai, in S.C.54/2017, before finalising the enquiry report.

Prayer in W.P.No.32838 of 2019:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records relating to the proceedings of the 1st respondent in Tha.Ko.No.381/Tha.Pi. 2(1)/2015, dated 19.10.2015 and quash the same in so far as the charges 2 and 3 therein are concerned.

For Petitioner : M/s.G.R.Associates in both WPs

For Respondents: Mr.A.N.Thambidurai

Special Government Pleader in both WPs



C O M M O N O R D E R

The petitioner has filed W.P.No.32836 of 2019 seeking issuance of Writ of Certiorarified Mandamus calling for the records relating to the proceedings of the first respondent dated 22.10.2019 in Tha.Ko.No.381/Tha.Pi/2(1)/2017, Rule 3(a), enclosing enquiry report dated 02.10.2019, to quash the same, and to consequently direct the respondents to consider the Judgment of the learned XVIII Additional Sessions Judge, City Civil Court, Chennai, in S.C.No.54 of 2017, before finalising the enquiry report.

2.The petitioner has filed W.P.No.32838 of 2019 seeking issuance of Writ of Certiorari calling for the records relating to the proceedings of the first respondent in Tha.Ko.No.381/Tha.Pi. 2(1)/2015, dated 19.10.2015 and to quash the same in so far as the charges 2 and 3 therein are concerned.

3.Heard the arguments advanced on either side. By consent the writ petitions are taken up for final disposal and since the petitioner in both the writ petitions are one and the same, the writ petitions are disposed of by way of a common order.

4.The case of the petitioner is that the petitioner joined the Tamil Nadu Police Department as Constable and was posted in the Tamil Nadu Special Police third Battalion in Manimutharu on 17.11.1988. Thereafter, after serving in Special Security Group (CM Security) and Security Branch, Tamil Nadu (Minister PSO) and Tamil Nadu Commando Force and City Armed Force as PSO to CBCID, ADGP, the petitioner was finally promoted as Special Sub Inspector City Armed Reserve, Chennai City.

5.It is the further case of the petitioner that when the petitioner was serving as PSO to ASGI, during September, 2015, the petitioner was charged under Section 307 of IPC read with Section 27 of the Arms Act, 1957, which led to initiation of disciplinary proceedings resulting in suspension of service on 22.09.2015. Thereafter, charges against the petitioner were framed and the impugned communication dated 19.10.2015 came to be issued. The petitioner was thereafter acquitted from all the charges, however, without considering the said acquittal, the impugned communication dated 22.10.2019 came to be issued. Hence, challenging the impugned communications dated 19.10.2015 and 22.10.2019, the petitioner has filed these writ petitions.

6.The learned counsel appearing for the petitioner would submit that law is well settled that criminal Court verdict is not binding on the Disciplinary Authority, however, the respondents may consider the petitioner's case sympathetically



and would further submit that if the criminal Court acquittal is honourable acquittal, it will be binding on the Disciplinary Authority. Hence, this Court need not interfere with the impugned communications, however, this Court may permit the petitioner to submit his explanation, within a period of one week from the date of receipt of a copy of this order and thereafter, the Disciplinary Authority may be directed to pass appropriate orders with sympathetic view.

7.The learned Special Government Pleader appearing for the respondents would submit that if any explanation is received from the petitioner, the same will be considered by the Disciplinary Authority in accordance with law.

8.In view of the above, the petitioner is permitted to submit his explanation to the respondents, within a period of one week from the date of receipt of a copy of this order. If any such explanation is received from the petitioner, the respondents shall consider the same and pass appropriate orders, as expeditiously as possible.

9.The writ petition is disposed of on the above terms. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

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To

1.The XVIII Addl.Sessions Judge,
City Civil Court, Chennai.

2.The Deputy Commissioner of Police,
Armed Reserve - I,
Pudupet,
Greater Chennai Police,
Chennai - 600 002.

3.The Assistant Commissioner of Police - I,
Armed Reserve - II,
St.Thomas Mount,
Greater Chennai Police,
Chennai - 600 016.



+2cc to M/s.G.R.Associates, Advocate SR.97450
+1cc to Spl Government Pleader SR.98023

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W.P.Nos.32836 and 32838 of 2019
And
W.M.P.Nos.33261 and 33262 of 2019

RP (CO)
CB(09/12/2019)