

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 12.06.2019

CORAM

THE HONOURABLE MR. JUSTICE V.PARTHIBAN

W.P.No.26675 of 2018
WMP.Nos.31050, 31051 & 31053 of 2018

Kalaiselvi

.. Petitioner

Vs.

1.The Director General of Police(Training),
Ashok Nagar, Chennai

2.The Superintendent of Police,
Villupuram District

3.The Principal,
Temporary Police Training School,
Mettur, Salem District.

...Respondents

Petition filed under Article 226 of The Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the records in C.No.A2/4500/2017 dated 28.02.2018 on the file of the second respondent and subsequent rejection order in Na.Ka.No.A2/4500/2017 dated 27.08.2018 on the file of the second respondent and quash the same as illegal, incompetent and without jurisdiction and further direct the respondents to take back the petitioner in third respondent police training school with all monetary and service benefits in view of the judgment of this Court in W.P.Nos.4764 & 4765 of 2014, dated 20.08.2017.

For Petitioner .. Mr.M.Muruganantham

For Respondents .. Mr.J.Pothiraj, Spl G.P. for R1 to 3

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ORDER

This writ petition has been filed seeking for issuance of a Certiorarified Mandamus, to call for the records in C.No.A2/4500/2017 dated 28.02.2018 on the file of the second respondent and subsequent rejection order in Na.Ka.No.A2/4500/2017 dated 27.08.2018 on the file of the second respondent and quash the same as illegal, incompetent and without jurisdiction and further direct the respondents to take

back the petitioner in third respondent police training school with all monetary and service benefits in view of the judgment of this Court in W.P.Nos.4764 & 4765 of 2014, dated 20.08.2017.

2. The petitioner was selected as Grade II Police Constable, Armed force (Women) and was directed to join the third respondent Training School on 31.10.2017 and take part in all the drills as part of the training. In February 2018, the petitioner appears to have received an information that her father and mother while travelling to meet her in the training school, had met with an accident and hospitalized for major treatment. After hearing about the said incident, the petitioner wanted to see her parents and therefore, requested the third respondent to grant permission for a few days to leave the training and go to her town to see her parents. However, the third respondent did not grant permission for the petitioner to leave the training underway.

3. In view of the emergent situation wherein, both her parents met with an accident and being deeply worried about their health condition, the petitioner was constrained to submit an application to relieve her from job on 19.02.2018 to the third respondent. The application for relieving her was immediately accepted by the third respondent and the petitioner was relieved from duty on 02.03.2018 by order dated 28.02.2018. However, after giving her resignation under the unavoidable circumstances, she realized her mistake and immediately, she sent a representation on 03.03.2018 to the second respondent seeking to recall her resignation letter. However, the same was rejected vide proceedings dated 27.08.2018. The rejection order dated 27.08.2018 by the second respondent along with the relieving order dated 28.02.2018, is put to challenge in the present Writ Petition.

4. The learned counsel for the petitioner would submit that though the petitioner has tendered her resignation due to the force of circumstances, however, later on realizing her mistake for having given resignation hastily, she wanted to withdraw her resignation and accordingly, she sent a representation immediately on 3.3.2018. Unfortunately, the authority though was not competent had immediately accepted her resignation without waiting for the expiry of the notice period and relieved the petitioner from service. According to the learned counsel for the petitioner, in fact, she had given a letter requesting for leave on medical grounds but the same was not considered which prompted the petitioner to tender her resignation and the respondents have relieved her from service altogether.

5. The learned counsel would also submit that in similar circumstances, this Court vide order dated 24.08.2017 in WP. Nos.4764 & 4765 of 2014, has allowed the claims of the

constables. The learned counsel would draw the attention of this Court to paragraphs 4 to 9 of the order passed in the above said Writ Petitions, which are extracted here under:

'4. Thereafter, the petitioners seemed to have proceeded to their native places and looked after their mothers and after taking treatment, the petitioners' mothers seemed to have recovered from their illness. After recovery of their mothers, the petitioners went back to the battalion in which they were originally posted for training within few days and requested the third respondent not to accept their resignation. However, the request of the petitioners came to be rejected stating that their resignation had already been accepted by the authority on 14.03.2013 and 07.03.2013 itself. The decision was intimated to the petitioners vide communication dated 20.07.2013 and 22.08.2013 respectively. The acceptance of the resignation and the rejection orders are put to challenge in these writ petitions.

5. Learned counsel appearing for the petitioners would at the outset submit that as per the Tamil Nadu Special Police Subordinate Service Rules, 1978, a member of service may resign his appointment by giving advance notice not less than three months and he may withdraw the notice of his resignation before its acceptance. According to him, the acceptance by the authority concerned without even giving an opportunity to the petitioners within a matter of few days/on the same day is contrary to the provisions as the authority ought to have waited for expiry of three months before the same is accepted or ought to have waited for a reasonable time. According to the learned counsel for the petitioners, the acceptance of the letter on behalf of the principal by the other official is also not a valid acceptance. According to him, the second respondent is the competent authority to accept the resignation. Therefore, in any event, the acceptance of resignation is not valid in the eye of law.

6. However, the learned counsel would also submit that in view of the extreme emergency and out of mental turmoil, the resignation letters were given only in order to avail few days leave to look after their mothers' health condition and the authorities ought to have

waited for some reasonable time before the resignation letters were accepted. The manner in which the resignation letters had been hurriedly accepted by the authority whether he was competent or otherwise does demonstrate lack of understanding of the circumstances under which the resignation letters were tendered by the petitioners.

7. Upon notice, Mr. T. M. Pappiah, learned Special Government Pleader entered appearance on behalf of the respondents and filed counter. He reiterated the contents contained in the counter affidavit.

8. Upon consideration of the arguments advanced by the learned counsel appearing for the petitioners and the learned Special Government Pleader appearing for the respondents, this Court is of the view that there is considerable force in the contentions put forth by the learned counsel for the petitioners as the manner in which the resignation letters had been accepted so promptly without appreciating the circumstances under which the resignation letters were tendered does demonstrate the lack of understanding, as argued by the learned counsel for the petitioner. Moreover, the authority ought to have waited at least a reasonable time as indicated in Rule 36A of the Tamil Nadu Special Police Subordinate Service Rules, 1978, before the resignation letter came to be accepted. There is also force in the contention that the resignation letters were accepted by the officer, who was not competent to accept the same.

9. In the above said circumstances, this Court has no hesitation in allowing the writ petitions. Therefore, the impugned orders accepting the resignation dated 14.03.2013 and 07.03.2013 and further rejection of the petitioners' claim dated 20.07.2013 and 22.08.2013 for withdrawing the resignation are set aside. The respondents are directed to take back the petitioners and depute them for training as Grade II Police Constable. The respondents are also directed to pass consequential order taking back the petitioners within a period of two months from the date of receipt of a copy of this order.

Therefore, the learned counsel for the petitioner would submit that the present writ petition may also be considered in the light of the directions issued by this Court in the aforesaid writ petitions.

6. Mr.J.Pothiraj, the learned Special Government Pleader appearing for the respondents would submit that the petitioner's resignation has been accepted by the authority and therefore, the question of revoking resignation did not arise at all and hence, the authority had rightly rejected the subsequent representation given by the petitioner for recalling of her resignation letter. According to the learned Special Government Pleader, once the petitioner tendered her resignation on her own volition, no matter whatever be the circumstances and the same having been accepted by the authority. It is not open to the petitioner to come back and seek for recalling of her resignation. Therefore, he would submit that there is no merit in the writ petition and the same is liable to be dismissed.

7. Heard, Mr.N.Muruganandam, learned counsel for the petitioner and Mr. J.Pothiraj, learned Special Government Pleader appearing for the respondents.

8. Considering the submissions made on behalf of the petitioner as well as the learned Special Government Pleader appearing for the respondents, no doubt, the petitioner has tendered her resignation during the period of training, which was also accepted by the authority but at the same time considering the extraordinary circumstances of the case, wherein, the parents of the petitioner met with an accident and were hospitalised, the petitioner had to leave the training hurriedly in order to fulfill her family obligation. However, after realising her mistake that she left the training midway without proper leave, she submitted an application for revocation of her resignation immediately on 03.03.2018 but the authority however, not considered her request and negatived the same, which of course cannot be faulted with in normal circumstances. However, in this case, in view of the circumstances as narrated above in order to give one more chance to the petitioner and also in view of the fact that a direction was already given by this Court in similar circumstances in the aforesaid writ petitions, this Court is of the view that the relief sought for by the petitioner in the Writ Petition can be entertained. In the said circumstances, by applying the principle as laid down by this Court in its order dated 24.08.2017 in W.P Nos.4764 & 4765 of 2014, the present writ petition is also allowed and the impugned orders passed vide C.No.A2/4500/2017 dated 28.02.2018 and a subsequent rejection order in Na.Ka.No.A2/4500/2017 dated 27.08.2018 passed by the second respondent are hereby set aside. The respondents are directed to reinstate the petitioner in service and depute

her for training as Grade II Police Constable. Such exercise shall be completed within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Director General of Police(Training),
Ashok Nagar, Chennai
- 2.The Superintendent of Police,
Villupuram District
- 3.The Principal,
Temporary Police Training School,
Mettur, Salem District.

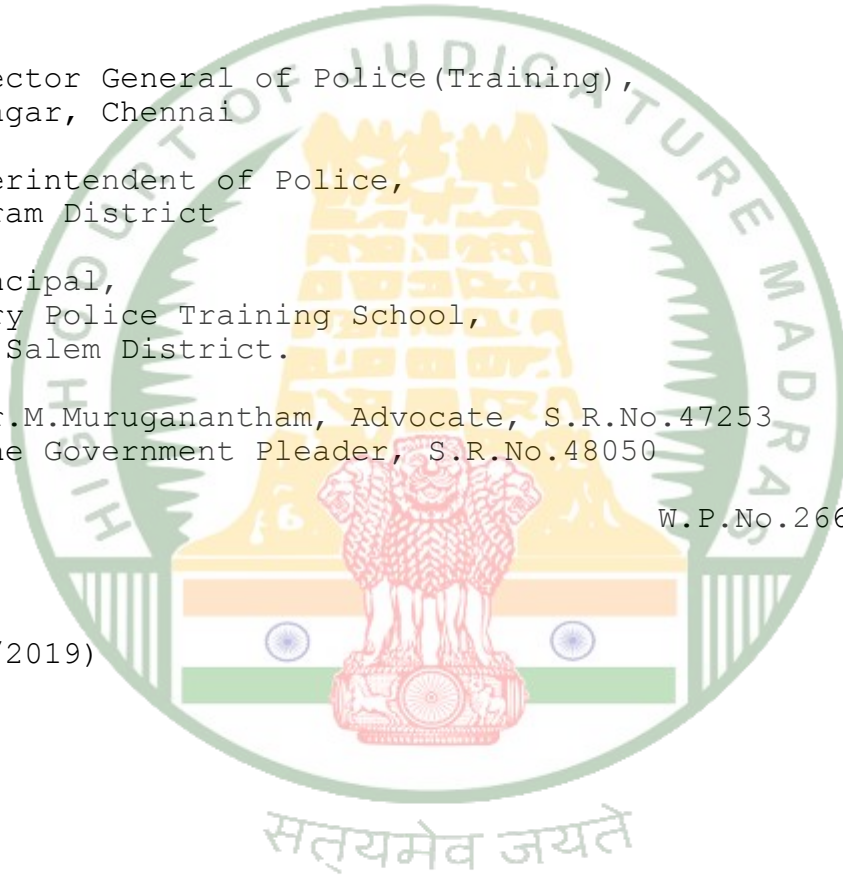
+1cc to Mr.M.Muruganantham, Advocate, S.R.No.47253

+1cc to the Government Pleader, S.R.No.48050

W.P.No.26675 of 2018

SKV (CO)

RRS (24/07/2019)



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