

**HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI**

**W.P.No.7222 of 2019**

**ORDER:**

This writ petitions is being disposed of at the admission stage with the consent of both the parties.

2. Heard the learned counsel for the petitioner and the learned Government Pleader for Home (Services-I).

3. It has been contended by the petitioner that he was initially appointed as a Home Guard vide orders dated 19-04-2006 and ever since he has been discharging his duties without any complaints. The petitioner further contends that while he was discharging his duties as Home Guard during September, 2014, the 4<sup>th</sup> respondent had issued a show cause notice on 09.10.2014 to the effect that he was not attending duty for two years and his whereabouts are not known and without conducting any enquiry or giving any opportunity, on the same day, again issued impugned orders dated 09-10-2014 removing him from service including his name in the list of Long Absentee Home Guards as shown in the impugned order.

4. Learned counsel appearing for the petitioner contends that the issue whether the Home Guards can be removed without conducting detailed enquiry and without following the provisions of Section 7 (4) of Home Guards Act, fell for consideration before this Court in W.P.No.28875 of 2011 and batch of cases and this Court

vide orders, dated 07.09.2011, has set aside the orders of removal on the ground that no enquiry was conducted and no opportunity was given to the Home Guards therein. Learned counsel appearing for the petitioner further contends that since the order of removal is contrary to the orders passed by this Court in W.P.No.28875 of 2011 and batch, the impugned removal order dated 09-10-2014 is liable to be set aside and the petitioner shall be reinstated into service.

5. Learned Government Pleader appearing for the respondents had not disputed the same and contended that the issue raised in the writ petition is squarely covered by the judgment referred supra.

6. This Court, having considered the rival submissions made by the respective parties, is of the considered view that the impugned removal orders dated 09-10-2014 is liable to be set aside in view of the orders passed on 07.09.2011 in W.P.No.28875 of 2011 and batch of cases, as the respondents have not conducted any enquiry nor given any opportunity to the petitioner before passing orders of removal.

7. With the above observations, the writ petition is allowed setting aside the impugned removal orders, dated 09-10-2014, and the respondents are directed to reinstate the petitioner into service. However, the petitioner is not entitled to continuity of service, seniority and arrears of pay. No costs.

8. Consequently, miscellaneous petitions pending, if any, shall stand closed.

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**ABHINAND KUMAR SHAVILI, J**

Dated: 04-04-2019  
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