

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.11.2020

CORAM

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

W.P.No.16784 of 2007
(O.A.No.3182 of 2003)

Rajesh Kumar

...Petitioner

Versus

1.The Director General of Police,
Chennai-600 004.

2.The Superintendent of Police,
Nilagiri District, Uthagamandalam.

...Respondents

PRAYER: Originally this petition has been filed as Original Application No.3182 of 2003 before the Tamil Nadu Administrative Tribunal at Chennai and after abolition of TNAT, petition has been transferred and re numbered as W.P.No.16784 of 2007.

Writ petition is 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 Pro.Rc.No.141340/A.P.I (1)/2001 dated 12.06.2003 of the first respondent and (2) P.R.No.29/98 dated 28.07.1999 of the second respondent, quash the same and issue consequential directions to reinstate the petitioner in service with all consequential service and monetary benefits.

For Petitioner : No appearance

For Respondents : Mr.K.Magesh

Special Government Pleader

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O R D E R

This Writ Petition has been filed challenging the order passed by the first respondent in Pro.Rc.No.14340/A.P.I (1)/2001 dated 12.06.2003 and the order passed by the second respondent in P.R.No.29/98 dated 28.07.1999 and seeks to quash the same and also seeking for directions to reinstate the petitioner in service with all consequential service and monetary benefits.

2. When the matter was taken up for hearing on 14.10.2020 there was no representation for the petitioner and the matter was directed to be posted on 19.11.2020. Even today, there is no representation for the petitioner.

3. The case of the petitioner is that the petitioner was initially appointed as Police Constable Grade II, and joined service on 09.06.1993 at the Tamilnadu Special Police Unit, Chennai. Thereafter, he was transferred to Armed Reserve Unit at Nilagiri District on 03.07.1996. Due to ill health condition of the parents of the petitioner, the petitioner could not attend the duty from 03.08.1997 onwards. Subsequently a charge memo was issued to the petitioner on 29.08.1997 alleging that he was absented himself without any leave or permission for 21 days. Thereafter an enquiry officer was appointed and after the enquiry, the enquiry officer filed a report on 31.08.1998 stating dismissal of removal from service. Therefore, the Petitioner filed Original Application before the Tamil Nadu Administrative Tribunal at Chennai and after abolition of TNAT, petition has been transferred and re numbered as W.P.No.16784 of 2007.

4. The learned Special Government Pleader would submit that the petitioner was working as Police Constable Grade II No.129/N, Armed Reserve Unit, III Platoon, Uthagamandalam. The petitioner has not reported for duty on 03.08.1997 at 8 a.m., and he was absented himself without any leave or permission from the superior officers. Since the petitioner was absent for 21 days, as on 23.8.97, the second respondent passed an order dated 27.8.97 stating that as per the Order in P.S.O. 88(i) Vol.I.P.C.129, the petitioner is struck off as a desertion with effect from 3.8.1997 (i.e) from the date of absence and further directed him to appear before the second respondent within sixty days for reinstatement into service. But the petitioner failed to do so. Therefore, he was removed from service after conducting oral enquiry.

5. According to the learned Special Government Pleader, even during the enquiry, the petitioner has not stated that he is ready to continue the service and after affording sufficient opportunity he was directed to join within 60 days. Even then, he has not joined the duty. Subsequently after 2 years he has given representation. Even in that representation also, he has admitted that he was absent for duty more than 21 days. The only reason stated is that family circumstances and taking care of his old age parents. Therefore, the petitioner without any valid reason voluntarily absented from duty for more than 21 days. Since the petitioner has not reported duty from 23.8.97 onwards, he is not eligible to work. Hence, he seeks that the petition may be dismissed.

6. Considering the nature of dereliction committed by the petitioner and the circumstances of the case, this court is of the considered view that the petitioner is not entitled to any relief sought for in the Writ Petition and there is no merit in the Writ Petition and it is liable to be dismissed. Accordingly, this Writ Petition is dismissed. No costs.

Sd/-
Assistant Registrar(CO)

// True Copy//

Sub Assistant Registrar

mpa

To

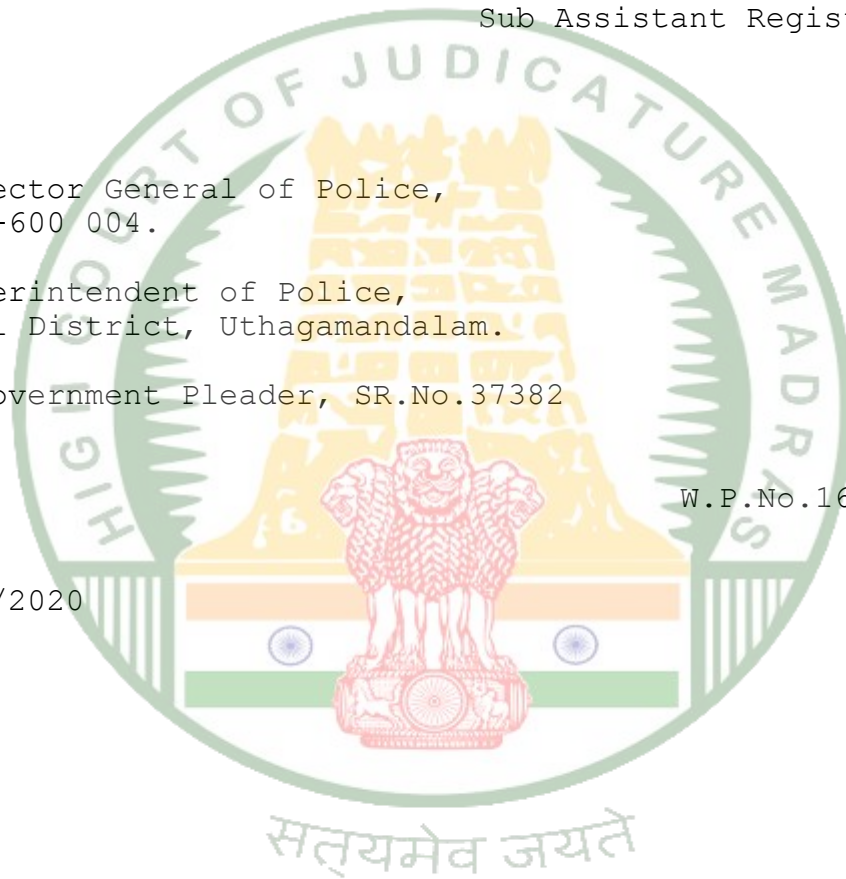
1.The Director General of Police,
Chennai-600 004.

2.The Superintendent of Police,
Nilagiri District, Uthagamandalam.

+1cc to Government Pleader, SR.No.37382

W.P.No.16784 of 2007

SR(CO)
KKV/14/12/2020



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