

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.12.2020

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.NO.42723 OF 2006
(O.A.NO.5951 OF 1999)

A.Suresh Kumar

... Petitioner

Vs.

1. The Superintendent of Police,
Coimbatore District, Coimbatore.

2. The Deputy Superintendent of Police,
District Crime Record Bureau,
Coimbatore District.

... Respondents

PRAYER : Originally this petition has been filed as Original Application No.5951 of 1999 before the Tamil Nadu Administrative Tribunal at Chennai and after abolition of TNAT, petition has been transferred and numbered as W.P.No.42723 of 2006.

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 of the first respondent in connection with the order passed in Na.Ka.No.J1/PR No.12/99 dated 28.09.1999 and quash the same and direct the respondents to reinstate the petitioner into service.

For Petitioner : Mr.S.Chandrasekaran
No appearance

For Respondents: Mr.K.Magesh
Special Government Pleader

ORDER

This Writ Petition has been filed challenging the order passed by the first respondent in Na.Ka.No.J1/PR No.12/99 dated 28.09.1999, quash the same and to direct the respondents to reinstate the petitioner into service.

2. The petitioner has filed the Original Application before the Tamil Nadu Administrative Tribunal, Chennai. Subsequently, due to abolition of the Tribunal, this matter was transferred to this Court and renumbered as W.P.No.42723 of 2006.

3. Formerly, this writ petition was dismissed for non-prosecution on 22.06.2010, subsequently, the petitioner has filed M.P.No.1 of 2011, to condone the delay in filing the restoration petition and the same was ordered on 18.11.2020. Further, he filed W.M.P.No.21005 of 2020, to set aside the dismissal order and to restore the writ petition, the same was allowed on 23.11.2020 and the writ petition was listed for today under the caption 'for final disposal'. Even then, when the matter is taken up for hearing today, there is no representation on behalf of the petitioner. Since the case is pending from the year 1999, this Court is inclined to dispose the matter.

4. The crux of the case is that the petitioner was appointed as Grade- II Police Constable in District Armed Reserve, Coimbatore District, on 17.11.1988. The petitioner was a Driver Police Constable and he was serving as driver for the vehicle of the Deputy Superintendent of Police. Suddenly, the petitioner was arrested by the Inspector of Police, Karamadai Police Station in Crime No.227/1998 under Section 392 IPC for having alleged to have committed the offence of robbery from Venkatachalam on 19.09.1998; was remanded to judicial custody on 25.11.1998 and was placed under suspension on 01.12.1998 retrospectively from 25.11.1998. The criminal case registered against the petitioner was pending and he was served with the charge memo by the first respondent in P.R.No.12/99 dated 01.03.1999.

The allegation against the petitioner is that on 19.09.1998 at about 20.00 hrs in Mettupalayam Allur Road, the petitioner along with 3 others intercepted a jeep TNT 4955 in the police uniform and threatened one Venkatachalam and took away a suitcase containing Rs.1,31,000/- and thereby, involved himself in criminal case registered in Crime No.227/1998. Thereafter, the Enquiry Officer was appointed and an enquiry was conducted for which, a notice was issued to the petitioner but he had sent a reply stating that he could not attend the enquiry pending criminal case against him on the same set of allegations. The Enquiry Officer conducted the enquiry and concluded the enquiry ex parte and gave his findings to the Disciplinary Authority holding that the charges against the petitioner were proved. Subsequently, the petitioner was served with an enquiry report and he gave his representation stating that as the criminal case against him is in the process of filling charge sheet, the disciplinary proceedings cannot be proceeded. Being not satisfied with the representation of the petitioner and in view of the enquiry report, the first respondent passed an order of imposing punishment of dismissal from service. Hence, the present writ petition. There is no representation for the petitioner.

5. Heard learned Special Government Pleader appearing for the respondents, who would submit that the petitioner was working as a driver police constable for the vehicle of the Deputy Superintendent of Police. He was involved in the robbery case with 3 others. During the enquiry, he did not appear even after receiving a notice, the Enquiry Officer, on the materials available found that the charges leveled against the petitioner were proved and the Disciplinary Authority has imposed the punishment of dismissal from service. All the opportunities were given to the petitioner but he has not used the same, therefore, considering the same, there is no merit in the writ petition.

6. On a careful perusal of records, this Court finds that, a case was registered against the petitioner in Crime No.227/1998 and during the investigation in the criminal case, he made confession that he could not attend the enquiry pending criminal case against him on the same set of allegations. However, in departmental proceedings, it was found that a criminal case was registered against the petitioner and he was also placed under suspension for the alleged offence and thereby, brought ill reputation to the Police Department. The charges leveled against the petitioner were proved and the petitioner did not appear before the Enquiry Officer purposefully.

7. Under these circumstances, this Court does not find any merit in the writ petition. Accordingly, the Writ Petition stands dismissed. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

sni
To

1. The Superintendent of Police,
Coimbatore District, Coimbatore.
2. The Deputy Superintendent of Police,
District Crime Record Bureau,
Coimbatore District.

+1cc to the Government Pleader, S.R.No.38647

W.P.No.42723 of 2006

UM(CO)
CS/21/01/2021