

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.02.2020

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THE HONOURABLE Mr.JUSTICE N.ANAND VENKATESH

WP.No.34834 of 2019

and

WMP.Nos.35594 of 2019 & 4139 of 2020

Palanisamy

... Petitioner

- Vs -

1. Superintendent of Police,
Ariyalur District,
Ariyalur.

2. The Inspector of Police,
Kairalabadh Police,
Ariyalur District.

.... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorari, calling for the records relating to the order passed by the first respondent dated 25.11.2019 made in D.O.No.601/2019 C.No.A3/17974/2019 and quash the same.

For Petitioner : Mr.A.Prakash

For Respondents : Mr.P.S.Sivashanmugasundaram
Special Government Pleader

O R D E R

This Writ Petition has been filed challenging the order of suspension passed by the first respondent by his proceedings dated 25.11.2019.

2. The case of the petitioner is that he was working as a Head Constable and while so, the impugned order of suspension came to be issued against him during November 2019. This has been made a subject matter of challenge in the present writ petition.

3. The learned counsel appearing on behalf of the petitioner submitted that the suspension order has been issued against the petitioner without any basis. According to the petitioner, he was directed by the second respondent to go and work at Kuvathoor Police Station. Since no orders were served on the petitioner, the petitioner refused to go and join the concerned Police Station. At this point of time, the first respondent has issued the suspension order against the petitioner on the ground that the petitioner used intemperate language against the second respondent and his family and also threatened him and therefore, the second respondent had requested the Deputy Superintendent of Police, Ariyalur, to take disciplinary action against the petitioner. The same has resulted in the first respondent issuing the order of suspension against the petitioner.

4. The learned counsel submitted that this incident is said to have taken place on 24.11.2019 and as per the counter affidavit filed by the respondent, the petitioner was absent from duty from 24.11.2019 and therefore, the learned counsel submitted that the alleged incident would not have taken place on 24.11.2019.

5. The first respondent has filed a detailed counter affidavit in this case. According to the first respondent, the petitioner had abused and threatened the second respondent and had refused to move to the Kuvathoor Police Station and the act of the petitioner clearly amounted to insubordination and therefore, disciplinary action was taken against the petitioner. Considering the seriousness of the allegation, a suspension order has been passed against the petitioner. Therefore, the first respondent has sought for the dismissal of the writ petition.

6. Mr.P.S.Sivashanmugasundaram, learned Special Government Pleader appearing on behalf of the respondents submitted that the petitioner, who is working in the Police Force is expected to maintain discipline and the petitioner ought not to have behaved in such a manner with the second respondent. The learned counsel further submitted that if such behaviour is tolerated, it will become very difficult for the Police Force to maintain the discipline in the department and it will have an overall impact on the entire Police Department. The learned counsel submitted that disciplinary proceedings initiated against the petitioner will be completed within a short time and therefore, requested this Court to dismiss the present writ petition.

7. This Court has carefully considered the submissions made on the either side and the materials available on record.

8. It is clear from the records that there is a clear misunderstanding between the petitioner, who was working as a Head Constable and the second respondent, who is Inspector of Police in the concerned Police Station. Even though, the incident is said to have taken place on 24.11.2019, it is stated in the counter affidavit that the petitioner was absent from duty from 24.11.2019. Therefore, the learned counsel for the petitioner submitted that the incident itself could not have happened in the absence of the petitioner in the Police Station. The issue raised by the petitioner will have to be considered only at the time of enquiry and this Court cannot render any finding on this issue.

9. Considering the allegations made against the petitioner and also of the fact that the petitioner is not in good terms with the second respondent, no useful purpose will be served by continuing with the petitioner in the same Police station. The first respondent can consider transferring the petitioner to some other police station and simultaneously proceed further with the departmental proceedings.

10. In view of the above, the petitioner is directed to make a representation to the first respondent seeking for posting him in some other police station and the first respondent, on receipt of the representation, shall consider the same and shall pass appropriate orders within a period of four (4) weeks from the date of receipt of a copy of this order and post the petitioner in some other police station. It is made clear that the first respondent can proceed further with the disciplinary proceedings and the same shall be completed as expeditiously as possible. If the petitioner is entitled for any subsistence allowance as per Rules, the same shall be disbursed.

11. This Writ Petition is disposed of with the above directions. No costs. Consequently, connected Miscellaneous Petitions are closed.

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Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

1. Superintendent of Police,
Ariyalur District,
Ariyalur.
2. The Inspector of Police,
Kairalabadh Police,
Ariyalur District.

+1cc to the Government Pleader Sr.18230
+1cc to Mr.A.Prakash, Advocate Sr.17049

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srg 19/03/2020



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