

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.11.2020

CORAM

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

W.P.No.16752 of 2007
(O.A.No.2878 of 2003)

S.Swaminathan

...Petitioner

Versus

1.The Superintendent of Police,
Nagapattinam District.

2.The Deputy Inspector General of Police,
Thanjavur Range, Thanjavur. Respondents

PRAYER: Originally this petition has been filed as Original Application No.2878 of 2003 before the Tamilnadu Administrative Tribunal at Chennai and after abolition of TNAT, petition has been transferred and numbered as W.P.No.16752 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 of the first Respondent in connection with the impugned order passed in PR.No.38/01 dated 27.05.02 served on 12.06.02 and quash the same and direct the respondents to reinstate the applicant into service and grant him all consequential service and monetary benefits and grant him such other further relief.

For Petitioner : No appearance

For Respondents : Mr.K.Magesh
Special Government Pleader

O R D E R

This Writ Petition has been filed challenging the order passed by the first respondent in PR.No.38/01 dated 27.05.02 served on 12.06.02 and seeks to quash the same and to direct the respondents to reinstate the applicant into service and grant him all consequential service and monetary benefits and grant him such other further relief.

2. When the matter is taken up today, none appeared on behalf of the petitioner.

3. (i) It is averred in the petition that the petitioner was working as a Grade-II Police Constable at Nagapattinam Police Station. During his service, the criminal case was registered against him in Crime No.158/89 under section 318 IPC. The respondent police filed the final report for the offences punishable under sections 457(2) r/w.380 IPC before the Judicial Magistrate-I, Nagapattinam and after trial the petitioner got acquittal on 31.12.1991. In the mean while, the petitioner was involved in another criminal case for the offences punishable under sections 447, 380 IPC in C.C.No.44 of 1989 on the file of the Additional Chief Judicial Magistrate and after trial convicted and sentenced to undergo two years R.I and Rs.1000/- fine.

(ii) In the mean while, the petitioner was issued with a charge memo for the theft of the pistol in PR.No.96/88 during the pendency of the criminal case. Since the criminal case in C.C.No.44 of 1989 ended in conviction, the petitioner was issued with a show cause notice by the Superintendent of Police, Nagapattinam dated 30.05.91.

(iii) The disciplinary authority namely the first respondent herein dismissed the petitioner from service based on the conviction sustained in the criminal case in C.C.No.44 of 1989. Challenging the same the petitioner preferred an appeal before the Sessions Judge, Thanjavur in C.A.No.58/91 and the same was dismissed. Thereafter he filed Criminal Revision petition before this Court in CrI.R.P.No.551/91. The Criminal Revision Petition was allowed setting aside the order passed in CrI.R.P.No.551 of 1991. Accordingly, the petitioner was reinstated into the service by the orders of Superintendent of Police, Nagapattinam, in D.O.No.1014/98 dated 04.12.1998. After restoring to duty, the earlier charge memo which was kept pending in P.R.No.96/89 which was issued for the delinquency of theft of the pistol was revived. The petitioner further submitted that the charge memo issued in PR.No.96/88 was closed by the order of Superintendent of Police, Nagapattinam on 30.06.2000. Again, another charge memo was issued for the same set of four charges in P.R.No.38/01 dated 31.01.2001.

(iv) Subsequently, the petitioner faced enquiry for the above said four charges in P.R.No.38/01 regarding theft of pistol. By following due disciplinary proceedings with regard to enquiry, the disciplinary authority viz., the 1st respondent agreed with the findings of the enquiry officer and held that the charges levelled against him were proved and imposed a punishment of compulsory retirement from the service by order dated 27.05.2002.

4. Against the punishment imposed by the first respondent, the petitioner filed appeal before the Appellate Authority, 2nd respondent. In the mean time, this OA has been filed before the TNAT, challenging the order of the compulsory retirement vide impugned order dated 27.05.2002. The said OA, has been transferred to the file of this court as Writ Petition.

5. Though several opportunity given to the petitioner, there was no representation on behalf of the petitioner.

6. Heard the learned Special Government Pleader and perused the materials available on record.

7. A reading of the entire materials available on record, would go to show that there is no irregularity found in the enquiry proceedings conducted by the Department. Further, the 1st respondent, after following the due procedure with regard to the enquiry, found that the charges leveled against the petitioner were proved and considering the nature of the offence and post held by the petitioner, the punishment of compulsory retirement is reasonable and there is no merit in the Writ Petition. Accordingly, this Writ Petition is dismissed. No costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1. The Superintendent of Police,
Nagapattinam District.

2. The Deputy Inspector General of Police,
Thanjavur Range, Thanjavur

+1 Cc to The Government Pleader sr 35618.

W.P. 16752 of 2007

CA (CO)
SP (08/12/2020)