



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.01.2020

CORAM:

THE HONOURABLE MRS. JUSTICE J.NISHA BANU

W.P.(MD) No.18064 of 2013 and

MP(MD) No.2 of 2013

WEB COPY

S.Selvindurai

:Petitioner

Vs

1. The Additional Director General of Police,
(Admn), Office of the Director General of Police,
Mylapore, Chennai.

2. The Deputy Inspector General of Police,
Armed Police,
Trichy.

3. The Commandant,
TSP IX BN, Manimuthar,
Tirunelveli District.

:Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus calling for the records relating to the impugned order of punishment imposed by the third respondent herein in PR No.55/2010 dated 21.06.2011, confirmed by order of the second respondent in AP No.16 of 2011 dated 16.08.2011 and finally rejecting the Review Petition by the third respondent by order in Na.Ka.No.A4/6877/2012 dated 17.05.2012 and quash the same and consequently direct the respondents herein to reinstate the petitioner as Havildar with all backwages and attendant benefits accrued to his service with revision of pay scale in the salary etc., within a reasonable time.

For Petitioner : Mr. G.Thalimutharasu
For M/S.C.Christophor

For Respondents : Mr.S.Dhayalan
Government Advocate

O R D E R

This Writ Petition is filed to call for the records relating to the impugned order of punishment imposed by the third respondent herein in PR No.55/2010 dated 21.06.2011, confirmed by order of the second respondent in AP No.16 of 2011 dated 16.08.2011 and finally rejecting the Review Petition by the third respondent by order in Na.Ka.No.A4/6877/2012 dated 17.05.2012 and quash the same and consequently direct the respondents herein to reinstate the petitioner as Havildar with all backwages and attendant benefits accrued to his service with revision of pay scale in the salary etc., within a reasonable time.



2. The case of the petitioner is that while he was working as Grade II police constable, he was arrested on 05.10.2010, in view of registration of First Information Report in Crime No.338 of 2010, wherein he was arrayed as fifth accused, for the alleged offences under Sections 302 & 380 IPC. The allegation in the criminal case is that the first accused said to have committed murder of a woman at her house and stolen her chain. The first accused has handed over the chain to the petitioner and the petitioner is said to have pledged the said chain with Muthoot finance. On the basis of the confession statement of the first accused, the petitioner was implicated in the criminal case. In view of his involvement in the criminal case, he was placed under suspension on 11.10.2010. Further the case of the petitioner is that even during pendency of criminal case itself, the third respondent concluded the disciplinary proceedings on the basis of charge itself and imposed punishment of removal from service on 21.06.2011. Challenging the same, the petitioner has filed an appeal, which also came to be rejected on 16.08.2011 stating that the punishment awarded to the petitioner should be an example to other police personnel. Later on, the criminal case initiated against the petitioner was ended in acquittal. Enclosing the copy of judgment of acquittal, the petitioner had preferred an appeal to the second respondent through the third respondent and the same has also been rejected on the ground of delay. Hence, without any alternate, the petitioner has come up with this present Writ Petition.

3. The learned counsel for the petitioner submitted that the criminal case initiated against the petitioner was ended in acquittal on the ground that the prosecution has failed to prove that the jewels recovered from the Muthoot finance said to have been pledged by the petitioner, belongs to the deceased wife of PW 1. Further, the learned counsel submitted that based on the confession statement of the first accused only, the petitioner has been implicated in the criminal case. Answering to the second charge against the petitioner that he was unauthorized absent from 05.10.2010, the learned counsel submitted that due to arrest of the petitioner on 05.10.2010, he was not able to attend office. Hence, for no fault of him, he was awarded with a major punishment of removal from service. The learned counsel for the petitioner relied upon Fundamental Rule 54, which speaks about the reinstatement of the Government servant into service on his subsequent acquittal in the criminal case. The learned counsel prayed this Court to quash the orders passed by the respondents.

4. On the other hand, the learned Government Advocate appearing for the respondents submitted that the petitioner being a police personnel do not give a room for involving in criminal offence and further submitted that the punishment given to the petitioner should be an example for other police personnel. Hence, there is no need to interfere with the impugned orders passed by the



5. Heard both sides and perused the documents.

6. It is not in dispute that the petitioner was placed under suspension on 11.10.2010 and during pendency of criminal case itself, the third respondent concluded the disciplinary proceedings initiated against the petitioner and imposed the punishment of removal from service on 21.06.2011. It is to be noted that the disciplinary proceedings has been initiated against the petitioner, only on the basis of the criminal case. When that being so, it cannot be comprehended that before conclusion of the criminal case, how the major punishment of removal from service has been passed. Further, it is an admitted fact that the prosecution has failed to prove that the jewels recovered from the Muthoot finance alleged to have been pledged by the petitioner, belongs to the deceased wife PW 1 thereby the criminal case initiated against the petitioner was ended in acquittal. Therefore, for the reasons stated above, I am inclined to interfere with the impugned orders.

7. Accordingly, the impugned order of punishment imposed by the third respondent herein in PR No.55/2010 dated 21.06.2011, confirmed by order of the second respondent in AP No.16 of 2011 dated 16.08.2011 and finally rejecting the Review Petition by the third respondent by order in Na.Ka.No.A4/6877/2012 dated 17.05.2012 are hereby quashed and the respondents are directed to reinstate the petitioner as Havildar with all backwages and attendant benefits accrued to his service with revision of pay scale in the salary. The said exercise shall be completed within 12 weeks from the date of receipt of a copy of this order.

8. With the above directions, the writ petition is allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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To

1. The Additional Director General of Police,
(Admn),
Office of the Director General of Police,
Mylapore,

<https://hcservices.courts.gov.in/hcservices/>



2. The Deputy Inspector General of Police,
Armed Police,
Trichy.

3. The Commandant
TSP IX BN, Manimuthar
Tirunelveli District

+1 CC to Mr.C,CHRISTOPHER, Advocate (SR-2602[F] dated 23/01/2020)

+1 CC to SPL GP (SR-2807[F] dated 24/01/2020)

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MP (MD) No.2 of 2013
23.01.2020

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