



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDER RESERVED ON : 23.01.2020
ORDER PRONOUNCED ON : 01.12.2020
CORAM

WEB COPY

THE HONOURABLE MRS.JUSTICE J.NISHABANU
W.P(MD)No.5332 of 2015
&
M.P(MD).No.1 of 2015 and 12177 of 2017

G.Anand

... Petitioner

Vs

1.The Deputy Inspector General of Police,
Armed Police,
Kilpauk,
Chennai-600 010.

2.The Commandant,
TSP-II Battalion,
Avadi,
Chennai-600 054.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus to call for the records on the file of the second respondent in connection with the impugned order of removal from service passed by him in his proceedings in PR.No.35/2012 dated 4.4.2013 and consequential impugned order of rejection passed by the first respondent in his proceedings in Rc.No.C1/Appeal 13/2013 dated 24.06.2013 and quash the same and consequently direct the respondents to reinstate the petitioner in service with all service and monetary benefits.

For Petitioner : Mr.J.Nandakumar for
M/s.Chamundi Bose
For R.1&2 : Mr.S.Dhayalan
Govt.Advocate

ORDER

This Writ Petition has been filed praying for issuance of a Writ of Certiorarified Mandamus to call for the records on the file of the second respondent in connection with the impugned order of removal from service passed by him in his proceedings in PR.No.35/2012 dated 4.4.2013 and consequential impugned order of rejection passed by the first respondent in his proceedings in Rc.No.C1/Appeal 13/2013 dated 24.06.2013 and quash the same and



consequently direct the respondents to reinstate the petitioner in service with all service and monetary benefits.

2. The petitioner would aver among other things that he joined as Grade II Police Constable on 15.02.2009 in the respondents office. While so, the petitioner was allotted with quarters by the respondent which was shared by two other Havildars. It is averred by the petitioner that in his absence, one of his roommates has brought his girl friend, namely, one Divya, to the petitioner's room which resulted in enquiry and to escape from the problem, the room mates stated to the police official that the girlfriend was the petitioner's wife, which resulted in issuing in 3(a) charge being levelled by the second respondent for the suppression of the marriage vide P.R.No.31/2012, dated 01.11.2012, to which, the petitioner submitted detailed explanation on 15.12.2012 denying himself from all the charges. Not satisfied with the same, the respondent issued censure dated 27.12.2012.

3. In the above background, marriage was fixed for the petitioner with one Shobana, who was informed about the alleged marriage. However, it is averred that she registered a compliant in Crime No.23/2012 against the petitioner on the file of All Women Police Station, Aruppukkottai and eventually, the petitioner was arrested and enlarged on bail. As a result, the petitioner was issued with 3(b) charge in P.R.No.35/2012 by the second respondent dated 31.12.2012 for immoral conduct and an enquiry officer was appointed and a show cause notice came to be issued on 20.01.2013. It is also averred that the marriage between the petitioner and the said Divya came to be registered on the file of Royapuram Registration Office dated 23.09.2012. The petitioner challenged the marriage as null and void in the civil suit on the file of the District Munsif Court, Madurai in O.S.No.29 of 2013. Despite summon being served on the defendant/divya, she has not entered her appearance for the past two years. Without considering all these aspects, the second respondent removed the petitioner from service vide his impugned order in P.R.No.35 of 2012 dated 04.04.2013. Aggrieved over the same, the first respondent preferred an appeal to the first respondent and the same came to be rejected vide impugned proceedings in R.C.No.C1/Appeal 13/2013 dated 24.06.2013. The petitioner challenged the suspension order vide W.P.No.9488 of 2013. Pending such Writ Petition, the petitioner was removed from service. Further, the defacto complainant in the criminal case withdrew the criminal complaint and as such the case was compounded by invoking section 320(8) of Cr.P.C which has the effect of acquittal vide order of the learned Judicial Magistrate, Aruppukkottai in C.C.No.91/2013 dated 05.05.2014. In the above background, this Writ Petition has been



4. The learned counsel for the petitioner has assailed the impugned order on various grounds. Firstly, both the respondents have passed non-speaking order and failed to give independent analysis of the charges levelled against the petitioner. Further, the petitioner was acquitted from the criminal case and there is no independent material to prove that he is married and living lawful matrimonial life and that apart the alleged bogus marriage certificate is challenged by way of civil suit before the competent Civil Court. Therefore, the punishment awarded to the petitioner is miscarriage of justice and unwarranted. He further submits that the departmental proceedings ought to be deferred as the charge in the departmental proceedings as well as the criminal proceedings are one and the same. The respondent should have waited for the outcome of the criminal case. Even without admitting the charge, the removal of the petitioner is highly disproportionate and excessive punishment to the charge.

4.1. In support of his contentions, he relied on the following judgments:-

(i) **Capt.M.Paul Authony Vs. Bharat Gold Mines Ltd and another** reported in **1999 (3) SC 679**.

(ii) **Indian Overseas Bank, Anna Salai and another Vs. P.Ganesan and others** reported in **2008 (1) SCC 650**.

(iii) **Uttranchal Road Transport Corporation & Others vs Mansaram Nainwal** reported in **2006 (6) SCC 366**.

5. *Per contra*, the learned Government Advocate appearing for the respondents through the counter affidavit would submit that the police force is a disciplined one. The allegations levelled against the petitioner is serious in nature. In this connection, he would draw the attention of this court mentioned in paragraph No.8 of the counter affidavit admitting his guilt. The respondents after taking into account the materials placed before them and also other factors, came to the conclusion to pass the impugned order in which there could be no infirmity and illegality found. It is in tune with the principles laid down by the respondents for the disciplined force. Hence, he would oppose for interfering with the present impugned order and pray for the dismissal of the Writ Petition.

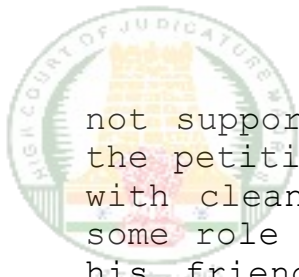
6. Heard the learned counsel appearing for the petitioner and learned Government advocate for the respondents and perused the materials available on record.

7. Though the learned counsel for the petitioner has raised many grounds and has also relied on the judgments, it is



the specific contention of the learned Government Advocate appearing for the respondents that the petitioner on his representation was allotted with the Government Police Quarters No.58/2012 for his accommodation with his family by way of Battalion Order No.243/2012 in C.No.C.2/8439/2011 dated 04.04.2012. While so, a complaint dated 02.08.2012 against the petitioner was received from his neighbor namely, Thiru.Ayyavu, Sub Inspector of Police, residing in quarters No.58/2008 stating that several unknown persons are seen in the house of Ty.Hav.Tr.Anand and unknown women are also staying and therefore, the said Ayyavu requested the authorities to vacate the petitioner from the quarters as some illegal activities were taking place in the petitioner's residence. On the petition of Tr.Ayyavu, an enquiry was conducted and the petitioner himself has given a written statement dated 22.08.2012 specifically admitting that he got married one Divya D/o.Sigarasu and Muniammal, Theni, on 12.02.2012 at Quarters No.5 in N Block in the presence of 'F' Coy PC Chinnadurai and the petitioner Ty.Hav. 4766 G.Anand is residing with his wife since then in the Quarters No.58/2012 allotted to him. He also submitted his written explanation dated 27.08.2012 stating that his marriage took place in an ordinary manner and since both the families had not accepted their marriage and his wife was very weak and had pregnancy of three months, his friends had come to visit his house to enquire about her health which had been mistakenly understood by the said Ayyavu who gave the complaint before the authorities. He also enclosed the prescription of the doctors who attended his wife for treatment and requested to show mercy for not reporting his marriage. Hence, he was dealt with under rule 3(a) in P.R.No.31/2012 for not reporting his marriage to the Battalion office and he was awarded with the punishment of Black Mark on 27.12.2012 by the disciplinary authority namely, Assistant Commandant-II TSP. II Bn.Avadi. Contrary to the same, the present affidavit has been filed by the petitioner, where he states that he has not married any woman and since he had been engaged with one Shobana, the so-called wife Divya has called Shobana over phone and stated about the alleged false previous marriage and therefore, the Shobana and her family gave a police complaint before the All Women Police Station, Aruppukottai, and a criminal case was registered against the petitioner in Crime No.23/2012 under Sections 496, 406 and 418 IPC and Section 4 of TNWH Act.

8. The above factum of the petitioner's marriage before the authorities has not been disputed and he also suffered a punishment of Black Mark and now he has totally turn around with some other version. In my considered opinion, since the admission is by the petitioner himself by way of written explanation and since the Police Force is a disciplined force, withdrawal of the complaint by the said Shobana will not have any bearing or will



not support the claim of the petitioner as even the affidavit of the petitioner would prove that he has not come before this Court with clean hands. Though he has stated that his friends played some role in the earlier occasion, by which, he had tried to save his friends, it will not support the case of the petitioner. Since it is an admission made by the petitioner, rightly, the respondents had not waited for the result of the verdict of the civil suit and therefore, on his immoral and indisciplined conduct which was proved with the material evidences and prosecution witnesses in the departmental action, I do not find any infirmity in the impugned orders passed by the authorities and therefore, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

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Sub Assistant Registrar(CS)

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To

1.The Deputy Inspector General of Police,
Armed Police,
Kilpauk,
Chennai-600 010.

2.The Commandant,
TSP-II Battalion,
Avadi,
Chennai-600 054.

+1 CC to Mr.CHAMUNDI BOSE, Advocate (SR-23453[F] dated 01/12/2020)

order made in
W.P(MD)No.5332 of 2015
01.12.2020

SJ(CO)

KM (08.12.2020) 5P 4C