

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.03.2021

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.2768 of 2021

and

W.M.P.No.3117 of 2021

M.Paneerselvam

Petitioner

-vs-

1. The State of Tamil Nadu,
represented by its Secretary to Government
Home Department,
Fort St. George, Chennai-600 009.

2. The Director General of Police,
Greater Chennai Police,
Radhakrishnan Saalai,
Chennai-600 004.

3. The Commandant,
Tamil Nadu Special Police,
3rd Battallion, Veerapuram,
Chennai-600 055.

Respondents

Prayer: Petition is filed under Article 226 of Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records on the file of the third respondent in PR No.6/2018 (PR No.64/17 TSP VII Bn Pochampalli) dated 25.01.2018 and also on the file of the second respondent in RC No.27719/AP3(1)/2018 dated 14.08.2018, quash the same and direct the Respondents to reinstate the petitioner in service with all service and monetary benefits.

For Petitioner : Mr.Jaya Lakshman for
Mr.S.Selvathirumurugan

For Respondents : Mr.J.Pothiraj,
Special Government Pleader

O R D E R

The petitioner has filed this writ petition seeking to quash the final order passed by the third respondent in PR No.6/2018(PR No.64/17 TSP VII Bn Pochampalli) dated 25.01.2018 and the proceedings of the second respondent in Rc.No.27719/AP3 (1)/2018 dated 14.08.2018 and direct the Respondents to reinstate the petitioner in service with all service and monetary benefits.

2. Mr.J.Pothiraj, learned Special Government Pleader takes notice for the respondents. By consent on either side, the Writ Petition itself is taken up for final disposal at the admission stage itself.

3.According to the petitioner, he was enlisted as Police Constable PC 5692 in Tamil Nadu Special Police in the year 2011. Levelling two charges (a) that on 14.02.2017 at 20.30 hours the petitioner went to the house of one Mohana, D/o Parasuraman in drunken mood and used filthy language against her and caused disrepute to the Police Department and (b) on the same day he disturbed the public and traffic and involved in Crime No.230 of 2017 under Section 75(1)(b) of the City Police Act in No.4 of Fishing Harbour Police Station against the petitioner, a charge memo was served on him. On 12.10.2017, an enquiry was conducted by the Assistant Commandant TSP VII Battalion, Pochampalli, and Enquiry Officer's Report was also given to him. The Enquiry Officer had enquired the said Mohana and rejected the mercy petition given by the petitioner on the ground that the petitioner had abused the said Mohana and thereafter used abusive language in public and caused disrepute to the police force. As the petitioner has not submitted any further representation to the third respondent, by an order dated 25.01.2018, the third respondent has imposed a punishment of removal from service. Aggrieved by the said order, he filed an appeal, which was also rejected on 09.05.2018. Thereafter, the petitioner has sent a mercy petition on 17.02.2018 and the same was also rejected by the second respondent on 14.08.2018. On 14.07.2019, the petitioner has sent a mercy petition to the first respondent and the same is pending consideration on his file. Seeking direction to consider the said mercy petition and to quash the orders passed by the respondents 3 and 2, the petitioner has filed the present writ petition.

4. Considering the facts and circumstances of the case and taking into account the fact that the petitioner's mercy petition is pending with the 1st respondent, the Writ Petition is disposed of with the following directions:

i) A direction is issued to the 1st respondent herein to consider the mercy petition sent by the petitioner dated 14.07.2019, if not already disposed of, and pass appropriate orders thereon, in accordance with law, after affording an opportunity of hearing to the petitioner and other persons, if any, who are likely to be affected, as expeditiously as possible, preferably within a period of three months from the date of receipt of a copy of this order;

ii) In case the petitioner is unable to appear for personal hearing, the petitioner is entitled to send a written submission within a period of one month from the date of receipt of a copy of this order through registered post or speed post and the same shall be treated as personal hearing. It is made clear that the petitioner can avail the opportunity of either personal hearing or filing written submission and not both;

iii) In case the petitioner fails to appear or file a written submission in time, the 1st respondent shall pass orders based on the available records and the petitioner, cannot at a later point of time take a stand that opportunity of being heard is not given to the petitioner;

iv) The petitioner shall furnish Mobile Number, email ID, if any, etc., along with a copy of the mercy petition dated 14.07.2019 and this order, to the 1st respondent forthwith;

v) The 1st respondent is directed to communicate the decision taken on the representation, to the petitioner within a period of three weeks from the date of decision taken thereon, by way of SMS/Email/registered post/speed post, so that there is no need for the petitioner to file contempt after expiry of the specified period. In case the authorities concerned fail to send communication to the petitioner, they will have to face the civil imprisonment in case of contempt proceedings. If they are unable to serve the order and the cover being returned un-served for one reason or the other, the same shall be kept in the file without opening it for the proof of delivery, so that the petitioner, later on, will not take a plea that the petitioner is not aware of the order. No costs. Consequently, connected WMP No.3117 of 2021 is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

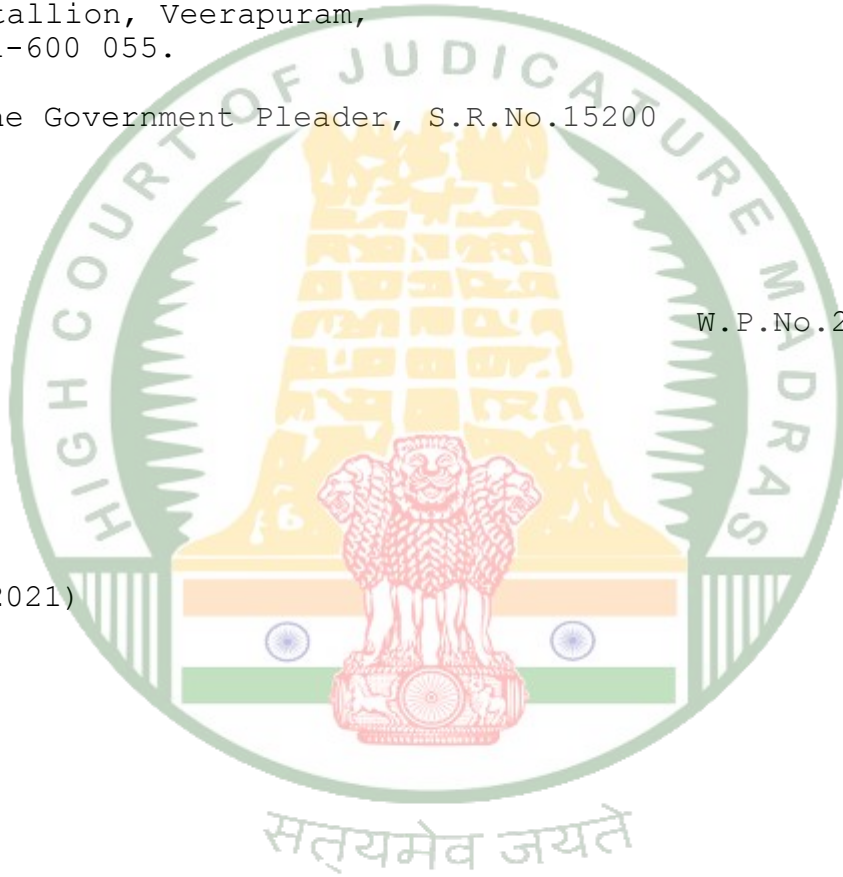
raa

To

1. The Secretary to Government,
State of Tamil Nadu, Home Department,
Fort St. George, Chennai-600 009.
 2. The Director General of Police,
Greater Chennai Police, Radhakrishnan Saalai,
Chennai-600 004.
 3. The Commandant, Tamil Nadu Special Police,
3rd Battallion, Veerapuram,
Chennai-600 055.
- +1cc to the Government Pleader, S.R.No.15200

W.P.No.2768 of 2021

AAB (CO)
RN (29/03/2021)



WEB COPY