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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.06.2021

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

AND

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.A. (MD)No.1154 of 2021

and

CMP (MD) .No.4969 of 2021

1. A.D.G.P.Civil Defence and Home Guards,
E.V.R.Maligai, Nandanam, Chennai - 35.

2. The Superintendent of Police,
Virudhunagar District.

3. The Deputy Superintendent of Police,
Virudhunagar District Crime Branch,
Virudhunagar.

4. The Area Commander,
Home Guard,
Virudhunagar District,
Rajapalayam.

... Appellants/Respondents

Vs.

N.Sundarapandiyan

... Respondent/Writ Petitioner

Prayer: Writ Appeal filed under Clause 15 of Letters Patent, against the order of this Court made in W.P.(MD) No.23385 of 2015, dated 07.11.2019.

Prayer in WP(MD). 23385 of 2015 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records pursuant to the impugned order of the 2nd respondent bearing Na.Ka.No. E4/21772/2015 vide District Order No. 1730/2015 dated 03.11.2015 and quash the same with a further direction directing the 2nd respondent to reinstate the petitioner into service.

For Appellants : Mr.A.K.Manickam
Government Counsel

For Respondent : Mr.Lakshmi Gopinathan
for M/s. Polax Legal Solutions



J U D G M E N T

[Judgment of the Court was delivered by **T.S.SIVAGNANAM, J.**]

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We have heard Mr.A.K.Manickam, learned Government Counsel appearing for the appellants and Mr.Lakshmi Gopinathan, learned counsel appearing for the respondent.

2. This writ appeal has been filed by the first respondent in W.P(MD).No.23385 of 2015, dated 07.11.2019. The said writ petition was filed by the respondent herein to quash the order of removal passed against the respondent dated 03.11.2015 and reinstating him in service as Home Guard.

3. The present writ petition, against which the appeal has been filed, is a second round of litigation. In the first round of litigation, the order passed by the 2nd appellant dated 21.04.2012, was challenged by filing W.P(MD).No.7703 of 2012, which was allowed by order dated 04.01.2013, on the ground that no definite charges were framed against the respondent and no opportunity to show cause or explain his conduct was given to him. However, while allowing the writ petition, liberty was granted to the appellants to initiate fresh action against the respondent. This resulted in issuance of a second charge memo, which has culminated into an order dated 03.11.2015. This was impugned in W.P(MD).No.23385 of 2015.

4. The learned Single Bench after considering the entire facts and circumstances found that even in the second charge memo, there was no specific charges framed against the respondent. Further, it was held that there has been serious violation of principles of natural justice. Accordingly, the writ petition was allowed and the order of removal was quashed. However, once again the learned Writ Court granted liberty to the appellants to initiate fresh proceedings after issuing charge memo.

5. In our considered opinion, the order passed by the learned Writ Court quashing the order of removal was fully justified. However, considering the fact that the respondent has been litigating before this Court from 2012 onwards, we are of the view that no liberty will be granted to the appellant to initiate fresh proceedings.

6. In the result, the writ appeal is dismissed with the slight modification in the order passed by the learned Single Bench by deleting the liberty granted to the appellants to issue fresh charge memo and as a consequence thereof, the respondent shall be notionally reinstated and all admissible benefits to be sanctioned and paid to him within a period of four months from the date of



receipt of a copy of this judgment, as the respondent has attained the age of superannuation on 31.04.2021. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-II)

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Sub Assistant Registrar(CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. A.D.G.P.Civil Defence and Home Guards,
E.V.R.Maligai, Nandanam, Chennai - 35.
2. The Superintendent of Police,
Virudhunagar District.
3. The Deputy Superintendent of Police,
Virudhunagar District Crime Branch,
Virudhunagar.
4. The Area Commander,
Home Guard,
Virudhunagar District,
Rajapalayam.

+1 CC to M/s.SPL GP (SR-19950[F] dated 22/06/2021)

+1 CC to M/s.POLAX LEGAL SOLUTION, Advocate (SR-19843[F] dated 22/06/2021)

W.A. (MD)No.1154 of 2021

18.06.2021

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