



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.03.2021

CORAM

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

AND

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.A. (MD)No.620 of 2020 and W.P.(MD) Nos.22146 to 22148, 22151 to 22153, 22177, 22178, 22181 to 22183, 22185 of 2019

R.SriMurugan,
Grade II Police 1204,
D1 Thallakulam (L& O) Police Station,
Madurai City.

... Appellant in the Writ Appeal
and Petitioner all the Writ Petitions

Vs.

1.The Principal Secretary to the Government,
Home Department,
Secretariat,
Fort St. George,
Chennai.

... 1st Respondent in the Writ Appeal

2.The Additional Chief Secretary to the Government,
Home (Police VI) Department,
Secretariat,
Fort St. George,
Chennai.

... 1st Respondent in the Writ Petitions

3.The Director General of Police,
No.1, Dr. Radhakrishnan Salai,
Mylapore,
Chennai - 4.

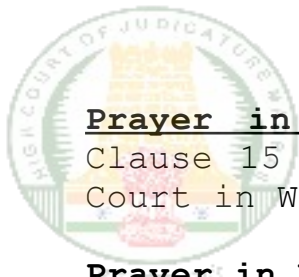
...2nd Respondent in the Writ Appeal/
2nd Respondent in the Writ Petitions

4.The Commissioner of Police,
Madurai City,
Madurai.

...3rd Respondent in the Writ Appeal/
3rd Respondent in the Writ Petitions

5.The Deputy Commissioner of Police,
Armed Reserve,
Madurai City,
Madurai.

...4th Respondent in the Writ Appeal/
4th Respondent in the Writ Petitions



Prayer in W.A.(MD) Nos.620 of 2020 : Writ Appeal filed under Clause 15 of the Letters Patent against the order passed by this Court in W.P.(MD)No.22740 of 2018, dated 14.11.2018.

Prayer in WP(MD) . 22740/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari to call for the records pertaining to the impugned order in G.O.(D) No.924, Home (Police-VI) Department, dated 02/08/2018 and quash the same as illegal.

Prayer in all the Writ Petitions : Writ Petitions filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari to call for the records pertaining to the Impugned Order passed by 1st Respondent in G.O.(D) No.891 of 08.08.2019, G.O.(D) No.778 of 16.07.2019, G.O.(D) No.872 of 08.08.2019, G.O.(D) No.892 of 08.08.2019, G.O.(D) No.790 dated 18.07.2019, G.O.(D) No.876 dated 08.08.2019, G.O.(D) No.780 dated 16.07.2019, G.O.(D) No.873 dated 08.08.2019, G.O.(D) No.779 dated 16.07.2019, G.O.(D) No.874 dated 08.08.2019, G.O.(D) No.871 dated 08.08.2019 and G.O.(D) No.875 dated 08.08.2019, confirming the punishment imposed against the Petitioner in P.R.No.46/2015 dated 23.10.2015, P.R.No.14/2013 dated 27.05.2013, P.R.No.58/2011 dated 30.01.2017, P.R.No.51/2013 dated 03.07.2013, P.R.No.113/2015 dated 23.12.2015, P.R.No.112/2015 dated 02.04.2018, P.R.No.81/2013 dated 23.09.2013, P.R.No.118/2011 dated 17.02.2012, P.R.No.91/2014 dated 12.09.2014, P.R.No.09/2012 dated 06.06.2012, P.R.No.78/2014 dated 11.09.2014 and P.R.No.101/2011 dated 17.02.2012, respectively and quash the same as illegal.

For Writ Appellant and Writ : Mr.Niranjana S.Kumar
Petitioners For M/s.Rajaram

For Respondents 1 to 5 : Mrs.J.Padmavathidevi
Special Government Pleader

COMMON JUDGMENT

(Judgment of the Court was delivered by M.M.SUNDRESH, J)

Since all these cases involve the appellant, who is also the writ petitioner, and having similar facts, they are taken up together and disposed of by this common judgment.

2.The charge against the appellant is un-authorized absence from 2011 to 2014. Accordingly, different punishments have been imposed. Challenging the aforesaid punishments imposed, after exhausting all the remedies available, these Writ Appeal and Writ Petitions have been filed.



3.Learned counsel appearing for the appellant submitted that there is no dereliction of duty per se, in which, the appellant is involved. It is well known that he is a person, who is doing an excellent job in preparation of the documents pertaining to Goondas Act. He has sustained 52 such orders by way of his preparation, though the detaining authority is different. Admittedly, he was suffering from illness. He suffered head injury. In fact, he was given medical leave, but the charges have been framed on the premise that he continued thereafter without getting appropriate permission. There are similarly placed persons, who have given lesser punishment. If all these punishments are imposed, he would be getting paltry sum, which cannot be enough to take care of himself, his family and getting treatment. It is only in the year 2037, he will get the regular salary. From the year 2015, he has been continuously doing his job without facing any difficulty. Thus, considering the above, these cases have to be looked into.

4.Learned Special Government Pleader appearing for the respondents produced the details of the punishments and submitted that considering the nature of the job, the punishments have been imposed. The procedures have been followed. There is no substantial delay as alleged by the appellant. The letter relied upon is only made to use the guidelines. It is not a single case, but a series of such cases of un-authorized absence of the appellant. Therefore, there is no need to interfere with the order passed.

5.As submitted by the learned counsel appearing for the appellant, the issue is one of un-authorized absence. The fact that the appellant suffered an accident, leading to head injury, is not disputed. It is no-body's case that he was un-authorized absent prior to the accident. There is no other charge than the un-authorized absence against him. From the year, 2015, he has been performing his duty without facing any charge. Therefore, we are of the view that these aspects are to be taken into consideration by respondent No.1. Though we are not in agreement with the submissions made by the appellant on merit, we do feel that, considering the facts as narrated, it is a fit case for re-consideration for imposing a lesser punishment cumulatively.

6.In the light of the discussion made above, the Writ Appeal and the Writ Petitions are allowed, setting aside the order of the learned Single Judge dated 14.11.2018, made in W.P.(MD) No.22740 of 2018 and quashing the impugned orders passed by respondent No.1 and remitting the same to respondent No.1 to consider imposition of lesser punishment to the petitioner. Appropriate Orders will have to be passed by respondent No.1



within a period of eight weeks from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar ()

WEB COPY

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

sj

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.The Principal Secretary to the Government,
Home Department, Secretariat,
Fort St. George, Chennai.
- 2.The Additional Chief Secretary to the Government,
Home (Police VI) Department,
Secretariat, Fort St. George,
Chennai.
- 3.The Director General of Police,
No.1, Dr. Radhakrishnan Salai,
Mylapore, Chennai - 4.
- 4.The Commissioner of Police,
Madurai City, Madurai.
- 5.The Deputy Commissioner of Police,
Armed Reserve, Madurai City,
Madurai.

+1 CC to M/s.A.RAJARAM, Advocate (SR-13461[F] dated 24/03/2021)

W.A. (MD) No. 620 of 2020

24.03.2021

KM(21.05.2021) 4P 7C