



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:16.11.2021

CORAM:

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P. (MD) .No.763 of 2018

and

W.M.P. (MD) .No.822 of 2018

V.Muthukumar

... Petitioner

vs.

1.The Director General of Police,
Tamil Nadu,
Chennai.

2.The Assistant Inspector General of Police,
(Administration),
Office of the Director General of Police,
Tamil Nadu,
Chennai.

3.The Superintendent of Police,
Pudukottai District,
Pudukottai.

... Respondents

PRAYER: 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 on the file of the second respondent proceedings in R.C.No.169879/Staff II(2)/2009, dated 05.03.2010 imposed punishment of "Removal from Service" and to quash the same.

For Petitioner : Mr.Raja Karthikeyan
For Respondents : Mr.A.K.Manikkam
Special Government Pleader

O R D E R

The petitioner challenges an order of the second respondent, that is, the Assistant Inspector General of Police, dated 05.03.2010. According to the petitioner, he was appointed on 31.03.1989 as a Typist at the District Police Office, Nagapattinam on compassionate grounds. He was served with the departmental charge memo on 31.08.2005, levelling 12 charges against him. He was suspended simultaneously on 31.08.2005 itself.



2.The petitioner does not appear to have responded to the call for enquiry. Though he states in the affidavit, in ground (C), that a written statement of defense was filed before the enquiry officer on 04.10.2005, defense statement is not part of the records. A copy of the defense statement placed at page - 12 of the compilation accompanying the writ affidavit also does not contain an acknowledgement of receipt.

3.The petitioner had filed earlier writ petition in W.P.(MD). No.11683 of 2005, wherein he seeks a Mandamus forbearing the respondents from proceeding with the enquiry that was ongoing. A perusal of that writ affidavit also does not contain any averment in regard to defense statement filed by the petitioner.

4.Thus, the inevitable conclusion is that the petitioner has not responded to the notice issued by the enquiry officer. Thus, the enquiry officer cannot be faulted for coming to the ex-parte conclusion of guilt, that was also communicated to the petitioner under cover of Memo dated 05.01.2010.

5.According to the petitioner, he was not in station when the enquiry report was circulated. However since the same is referred to in the impugned order, the petitioner could well have objected to the same even thereafter, which he did not choose to do.

6.Notices were thereafter issued by R3, prior to passing of the impugned order to which also the petitioner did not respond. It is thus that the impugned order has come to be passed on 05.03.2010, wherein the punishing authority agrees with the findings of the enquiry officer that the charges as against the delinquent were proved beyond all doubt.

7.Thus, and admittedly, the petitioner had not reported for duty and also did not respond to notices or summons issued by the enquiry officer / punishing authority. It is in these circumstances that the impugned order has come to be passed removing him from service. No case whatsoever has been made out warranting interference therein.

8.Incidentally, as against the order dated 05.03.2010, the petitioner makes a representation on 24.04.2016 before the Director General of Police seeking mercy. This mercy petition has also come to be rejected pending writ petition, on 17.10.2018.

9.I am also of the considered view that this writ petition is delayed inordinately, insofar as it challenges an order dated 05.03.2010 in the year 2018. Moreover, no first appeal as provided under the Tamil Nadu Police Subordinate Service (Discipline and Appeal) Rules has been filed and the mercy petition was itself filed



only on 24.04.2016. This Writ Petition is accordingly dismissed and the impugned order confirmed. No costs. Consequently, connected Miscellaneous Petition is closed.

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// True Copy //

Sd/-

Assistant Registrar(CS-III)

/ /2022

Sub Assistant Registrar(CS)

akv

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 Director General of Police,
Tamil Nadu,
Chennai.
- 2.The Assistant Inspector General of Police,
(Administration),
Office of the Director General of Police,
Tamil Nadu,
Chennai.
- 3.The Superintendent of Police,
Pudukottai District,
Pudukottai.

+1 CC to M/s.SPL GP (SR-34772[F] dated 17/11/2021)

+1 CC to M/s.RAJAKARTHIKEYAN, Advocate (SR-34896[F] dated 18/11/2021)

W.P. (MD) No.763 of 2018

16.11.2021

NSN(CO)

TR(01.02.2022) 3P 6C