



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **19.11.2021**

CORAM :

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P (MD)No.11246 of 2014

R.Gomathi

... Petitioner

Vs.

1.The Director General of Police
(Civil Protection and Home Guards)
Mylapore,
Chennai-600 004.

2.The Superintendent of Police,
Sivagangai District,
Sivagangai-630 561.

3.The Area Commander,
Home Guards,
Karaikudi,
Sivagangai District-630 002.

... Respondents

Prayer: Writ Petition filed under Article 226 Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the first respondent ந.க.எண்.அ1/3954/கு.பா and ஊ.கா/2013 dated 17.04.2014 and quash the same and consequently, direct the second respondent for the issuance of reinstatement order and thereby providing continuity of service and all other benefits.

For Petitioner : Mr.AL.Vijey Devraj
For Respondents : Mr.R.Ragavendran
Government Advocate(Civil side)

O R D E R

The petitioner was appointed as a Woman Home Guard by the second respondent on 17.02.2008. One of the co-employees namely, Malaimani was making false allegation against the petitioner. Because of the revenge attitude, the petitioner was not allotted any duty. On 09.08.2013, when the petitioner was called for duty, the Area Commander demanded an apology letter. As dictated by the Area Commander, the petitioner being subordinate to the third respondent, with no other option, has submitted the apology letter. Thereafter, the third respondent failed to allot any duties to the petitioner. Hence, the petitioner submitted a representation, dated 17.10.2013 to the second respondent to direct the third respondent to allot duties. The petitioner preferred letters to the superior Officers as well as to the Chief Minister's Cell. On receiving the letter, the petitioner was called for an enquiry on 28.10.2013. The



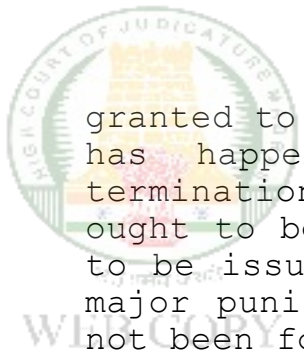
petitioner appeared before the third respondent and once again, submitted the apology letter. In spite of the apology letter, the petitioner received the termination order, dated 12.11.2013.

2.It is the allegation of the petitioner that the petitioner has not received any Charge Memo from the second respondent, who is the appointing authority. Without issuing any Charge Memo and without granting any opportunity for submitting any explanation, the petitioner was issued with the termination order. The petitioner preferred an appeal under Section 14(1) of the Tamil Nadu Home Guard Act, 1963 before the first respondent. The appeal was submitted through the Registered Post and the same was received by the first respondent on 03.02.2013. Since no notice was received, the learned counsel for the petitioner sent a letter on 16.06.2014 requesting to inform the enquiry date. But, the first respondent through the learned counsel for the petitioner has sent a letter, dated 27.06.2014 stating that a reply on the appeal was sent to the petitioner through the second respondent. Now also, a copy was not served to the petitioner. Thereafter, a xerox copy was sent to the petitioner vide letter, dated 17.04.2014 which was handed over to the petitioner in person. It is through the letter, dated 17.04.2014 only, the petitioner came to know that the first respondent has confirmed the termination order passed by the second respondent.

3.The second respondent has filed the counter. It is stated that the petitioner was deputed to bandobust duty for the flower festival in Sivagangai District. But the petitioner has come to the duty in a drunken mood. When the Police Officers and Area Commander visited and checked the bandobust duty, it was found that the petitioner was in unconscious mood due to consumption of liquor. The Charge Memo dated 25.10.2013 was issued and an enquiry was conducted on 28.10.2013. The petitioner participated in the enquiry and has voluntarily accepted her guilt. Thereafter, the third respondent vide report, dated 14.11.2013 recommended the petitioner for removal of service from Home Guard immediately. This was confirmed in the appeal order passed by the first respondent also. The counter also states that there is no violation of rules and the petitioner was granted natural justice by following the due process of law.

4.Heard the learned counsel for the petitioner and Mr.R.Ragavendran, learned Government Advocate for the respondents.

5.It is seen from the counter that a Memo was issued on 25.10.2013 indicating that the enquiry would be conducted on 28.10.2013. The counter is bereft of any facts whether the enquiry was conducted as per the prescribed Rules. Moreover, it is only a Memo and not a Charge Memo. In service jurisprudence, it is incumbent on the respondents to issue a Charge Memo and thereafter, <https://hccs.mca.gov.in/hccs/judicial> enquiry officer and then adequate opportunity should be



granted to the delinquent. It is seen from the counter that nothing has happened as stated above. Moreover, the punishment of termination was awarded to the delinquent. If any major punishment ought to be inflicted on the delinquent, then again, notice ought to be issued to the delinquent calling for explanation. While the major punishment is imposed on the delinquent, this procedure has not been followed at all. It is the specific case of the petitioner that she was called for enquiry on 28.10.2013 and was demanded a apology letter. So, the act of the respondents is not appreciated. Therefore, this Writ Petition is allowed, directing the respondents to reinstate the petitioner as Home Guard and grant continuity of service.

6.With these above directions, this Writ Petition is allowed.
No costs.

Sd/-

Assistant Registrar (T & P)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

gbg/btr

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
(Civil Protection and Home Guards)
Mylapore, Chennai-600 004.
- 2.The Superintendent of Police,
Sivagangai District, Sivagangai-630 561.
- 3.The Area Commander,
Home Guards,
Karaikudi,Sivagangai District-630 002.

+2 CC to M/s.A.L.VIJEYDEVARAJ, Advocate (SR-35413 dated 22/11/2021)

+1 CC to M/s.SPL GP (SR-35324 dated 22/11/2021)

W.P(MD)No.11246 of 2014

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RS (03.12.2021) 3P 7C

<https://hcservices.ecourts.gov.in/hcservices/>