



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.12.2021

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THE HONOURABLE MRS.JUSTICE **S.SRIMATHY**

W.P.(MD)No.11402 of 2014

and

M.P.(MD)No.1 of 2014

K.Kanagalakshmi

... Petitioner

vs.

1.State represented by the
Secretary to Government,
Home (Police) Department,
St.George Fort, Chennai.

2.The Appellate Authority,
The Deputy Inspector General of Police,
Tirunelveli Range, Tirunelveli,

3.The Punishing Authority,
The Superintendent of Police,
Thoothukudi District.

4.The Enquiry Officer,
The Deputy Superintendent of Police,
Thoothukudi Rural Sub-Division,
Thoothukudi.

5.The Station House Officer,
The Inspector of Police,
Kovilpatti East Police Station,
Kovilpatti,
Thoothukudi District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order (1) the minutes of enquiry officer, the fourth respondent, dated 16.06.2011 (2) award of removal from service by the punishing authority, third respondent, dated 07.12.2011, (3) the order of the second respondent appellate authority in C4/AP.27/2012, dated 19.06.2012, (4) impugned letter No.Na.Ka.No.H3/43994/2013, dated 22.11.2013, on the file of the third respondent and to quash the same as illegal and consequently to direct the second respondent order to regularize the petitioner's husband in service and release all pending salary,



arrears of payments, family pension and other terminal benefits of the petitioner's deceased husband PC.2267 C.Kanagaraj to the petitioner.

For Petitioner : Mr.P.Suresh
for Mr.R.Ponkarthikeyan

For Respondents : Mr.D.Sasi Kumar
Additional Government Pleader

O R D E R

This Writ Petition is filed for issuance of a Writ of Certiorarified Mandamus, to quash the impugned order (1) the minutes of enquiry officer of the fourth respondent, dated 16.06.2011 (2) award of removal from service by the punishing authority, third respondent, dated 07.12.2011, (3) the order of the second respondent appellate authority in C4/AP.27/2012, dated 19.06.2012, (4) impugned letter No.Na.Ka.No.H3/43994/2013, dated 22.11.2013, on the file of the third respondent and consequently to direct the second respondent order to regularize the petitioner's husband in service and release all pending salary, arrears of payments, family pension and other terminal benefits of the petitioner's deceased husband PC.2267 C.Kanagaraj to the petitioner.

2.The petitioner is a widow of Late C. Kanagaraj, Ex. Police Constable No. 2267 of Kovilpatti East Police Station, Tuticorin District. The petitioner's husband died on 16.08.2012, due to ill health. Since she did not receive any terminal benefits after his death, thereafter it came to her knowledge that her husband was removed from service and the appeal before the second respondent was also rejected through letter, dated 22.11.2013. The charge against the deceased employee was that he was involved in a criminal case in Crime No.46/2010 under Sections 294(b), 324, 323 and 506(ii) of IPC.

3.Based on the FIR, disciplinary proceeding was initiated and the charges were held proved, vide minutes, dated 11.06.2011. The Punishing authority agreed with the enquiry report and awarded the punishment of removal from service, vide order, dated 07.12.2011 and the Appellate authority, vide order, dated 19.06.2012, has rejected the appeal as time barred.

4.In the meantime, the criminal case in C.C.No.321 of 2010 on the file of Learned Judicial Magistrate No.II, Kovilpatti, the deceased delinquent was acquitted, vide order, dated 21.07.2012. The petitioner has submitted a representation, dated 15.07.2013 stating that her husband has not received any salary nor any pension or terminal benefits and she is taking care of her mother-in-law



aged 70 years and her three children are struggling to meet their day-to-day life.

5.The respondents have filed a counter affidavit, narrating the enquiry conducted against the delinquent. As far as the facts of the death of the delinquent is concerned, the respondents have stated that they are not have any remarks.

6.Heard Mr.P.Suresh, learned Counsel appearing for the petitioner and Mr.D.Sasi Kumar, learned Additional Government Pleader appearing for the respondents.

7.The deceased delinquent was involved in a criminal case in which he was arrayed as Accused No.2. As per the petitioner, the delinquent was only witnessing the quarrel and not involved in the quarrel. Moreover, the deceased delinquent was acquitted from the criminal case. On perusing the judgment of the Criminal Court it is seen that there is no overact against the deceased delinquent. Therefore, this Court is convinced that the proportionate of punishment is of higher side. Moreover, the family of the deceased delinquent i.e. the petitioner / wife with aged mother-in-law and three children are struggling without any income. Therefore, to meet the ends of justice, this Court is modifying the punishment from dismissal from service to compulsory retirement and the respondents are directed to modify the punishment as compulsory retirement and pay the consequential and monetary benefits to the petitioner.

8.With the above direction, the Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

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.The Secretary to Government,
Home (Police) Department,
St.George Fort, Chennai.
- 2.The Appellate Authority,
The Deputy Inspector General of Police,
Tirunelveli Range, Tirunelveli,
- 3.The Punishing Authority,
The Superintendent of Police,
Thoothukudi District.
- 4.The Enquiry Officer,
The Deputy Superintendent of Police,
Thoothukudi Rural Sub-Division,
Thoothukudi.
- 5.The Station House Officer,
The Inspector of Police,
Kovilpatti East Police Station,
Kovilpatti,
Thoothukudi District.

+1 CC to M/s.SPL GP (SR-37924[F] dated 09/12/2021)

+1 CC to M/s.R.PONKARTHIKEYAN, Advocate (SR-37855[F] dated
08/12/2021)

W.P. (MD) No.11402 of 2014
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RK(05/01/2022) 4P/8C