



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :10.03.2021

CORAM:

THE HONOURABLE **MR.JUSTICE M.DHANDAPANI**

W.P. (MD)No.4273 of 2017

and

W.M.P. (MD) .No.3422 of 2017

WEB COPY

G.Udhayakumar

.. Petitioner

Vs

1.The Superintendent of Police,
Virudhunagar District,
Virudhuanagar.

2.The Deputy Superintendent of Police,
Thiruchuli Sub Division,
Virudhuanagar District.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, forbearing the 1st respondent from passing final order in P.R.No.70/2016 dated 18.10.2016 based on the Enquiry Report of the 2nd respondent dated 01.02.2017, till the disposal of the criminal case in C.C.No.284 of 2016 pending on the file of the learned Judicial Magistrate No.II, Virudhuanagar.

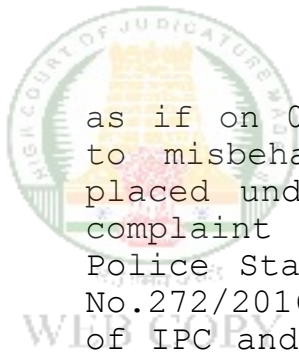
For Petitioner : Mr.G.Thalaimutharasu

For Respondents : Mr.M.Muthugeethayan
Special Government Pleader

O R D E R

This writ petition has been filed for the issue of writ of mandamus forbearing the 1st respondent from passing final order in P.R.No.70/2016 dated 18.10.2016 based on the Enquiry Report of the 2nd respondent dated 01.02.2017, till the disposal of the criminal case in C.C.No.284 of 2016 pending on the file of the learned Judicial Magistrate No.II, Virudhuanagar.

2. The case of the petitioner is that the petitioner was appointed as Grade-II Police Constable in the year 2009 and posted at Armed Reserve. While he was in service in the Armed Reserve, on 5.6.2016, he was deputed for night duty at Emergency Ward in Government Headquarters Hospital, Virudhuanagar along with two women police constables, namely, Ramapraba and Abinaya and it is further alleged that the women constable, Ramaprabha, due to previous motive, made a complaint before the Inspector of Police Armed Reserve, Virudhunagar, with false allegation against the petitioner



as if on 06.06.2016 when she was taking rest, the petitioner tried to misbehave with her modesty. Immediately, the petitioner was placed under suspension on 07.06.2016 and beside that she gave a complaint before the Sub Inspector of Police, Virudhunagar East Police Station, Virudhunagar and the same was registered in Crime No.272/2016 for the offences under Sections 448, 354 (C) and 506(i) of IPC and thereafter, the offences were altered into Sections 451, 354(C), 354(A) and 506(i) of IPC. Based on the above criminal complaint, the first respondent issued a charge memo in P.R.No.70/16 dated 18.10.2016 under Rule 3(b) of the Tamilnadu Police Subordinate Service (Discipline and Appeal) Rules, 1955 and called for explanation within 15 days. Subsequently, the 1st respondent appointed the 2nd respondent as Enquiry Officer and without satisfying the explanations submitted by the petitioner, the enquiry officer submitted the enquiry report on 01.02.2017 as if the charges are proved. Immediately after receipt of the enquiry report, the 1st respondent issued a memo dated 05.02.2017 calling for further explanation within a period of 15 days. In the meanwhile, after filing the final report, the said crime No.272 of 2016 was taken on file as C.C.No.284 of 2016 by the learned Judicial Magistrate No.II, Virudhunagar. Since the witnesses in the criminal case as well as in the departmental proceedings are one and the same, if the departmental proceedings alone to be proceeded first, it may cause serious prejudice to the petitioner in defending the criminal case. Hence this writ petition is filed with the above said prayer.

3. The learned Special Government Pleader appearing for the respondents would submit that during the pendency of the writ petition, the petitioner's service was terminated by the Superintendent of Police on 23.03.2017 and the petitioner was removed from service. On appeal before the Deputy Inspector General of Police, Madurai Range, the above said punishment was modified to the effect of postponement of next increment for a period of three years and accordingly, the petitioner was reinstated into service as per the order dated 04.11.2017. In view of the subsequent development, nothing survives for further adjudication in this writ petition .

4. Recording the above said submission, this writ petition stands dismissed. No Costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



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 Superintendent of Police,
Virudhunagar District,
Virudhuanagar.
- 2.The Deputy Superintendent of Police,
Thiruchuli Sub Division,
Virudhuanagar District.

+1 CC to M/s.SPL GP (SR-10595[F] dated 11/03/2021)

W.P. (MD) .No.4273 of 2017

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CN(23.06.2021) 3P 4C