



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.02.2021

CORAM:

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

W.P. (MD)No.10168 of 2016

and

W.M.P. (MD)Nos.7944 and 7945 of 2016

WEB COPY

A.Palanikumaran

... Petitioner

versus

1. The Superintendent of Police,
Thoothukudi District,
Thoothukudi.

2. The Area Commandant,
Tamil Nadu Home Guards &
Civil Defence,
Briant Nagar,
D.S.P. Camp Office,
Thoothukudi - 8.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorarified Mandamus, to call for the impugned order dated 22.09.2015 made in Na.Ka.No.21-38676-493-2015 மா/ஆ/எண்/1208-2015 passed by the 1st respondent and quash the same as illegal and consequently, reinstate the petitioner as Home Guard in the unit of Thoothukudi District forthwith.

For Petitioner : Mr.S.Palani Velayutham

For Respondents : Mr.D.Muruganantham,
Additional Government Pleader

ORDER

This writ petition is filed for the issuance of Writ of Certiorarified Mandamus, to call for the impugned order dated 22.09.2015 passed by the 1st respondent and quash the same as illegal and consequently, reinstate the petitioner as Home Guard in the unit of Thoothukudi District forthwith.

2. The petitioner joined as Home Guard in the office of the second respondent in the year 2005 and he completed 10 years of unblemished service in the Civil Defence Wing, Thoothukudi District. While so, the first respondent, issued impugned order dated 22.09.2015, dismissing the petitioner from Home Guards without assigning any reasons. Though the petitioner made several representations to the 1st respondent to reconsider the order of



dismissal, no action was forthcoming. Hence, the present writ petition is filed.

3. According to the petitioner, before passing the impugned order, no show cause notice was issued to the petitioner and no opportunity of personal hearing was given to him. Therefore, the order of dismissal is unsustainable in law.

4. The 1st respondent filed his counter affidavit stating that as per Section 6 of the Tamil Nadu Home Guard Act, 1963, every person appointed a member of Home Guard shall continue for a period of three years. In this case, the petitioner did not complete his service as Home Guard continuously. Further, as per Section 6(A) of the Act, re-appointment and extension of appointment may be given to the Guards. In this case, the petitioner was given every extension once in three years. The impugned order was passed by the 1st respondent after following all due process of law. Further, the basic and fundamental enquiries have been conducted as against the petitioner for his misconduct and disobedience and the petitioner himself admitted the same during the enquiry before the 2nd respondent. Therefore, the impugned order is sustainable in law and no interference is required. As per Rule 14 of the Act, an aggrieved person shall file an appeal before the Inspector General of Police. Therefore, the petitioner can avail the appeal remedy before the Inspector General of Police.

5. The learned counsel for the petitioner submitted that since the representation made by the petitioner is pending before the 1st respondent, it would suffice if the first respondent is directed to consider the representation made by the petitioner on 07.05.2016.

6. Considering the limited prayer sought for and without going into the merits of the case, this Court directs the 1st respondent to consider the representation dated 07.05.2016 and dispose of the same, on merits and in accordance with law and pass appropriate orders, within a period of twelve weeks from the date of receipt of a copy of this order.

7. With the above direction, the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



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To

1. The Superintendent of Police,
Thoothukudi District,
Thoothukudi.

2. The Area Commandant,
Tamil Nadu Home Guards &
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D.S.P. Camp Office,
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+1 CC to SPL GP (SR-5652[F] dated 17/02/2021)

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VB (09.03.2021) 3P 4C