



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.12.2021

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P. (MD)No.18358 of 2016

and

W.M.P. (MD)No.12677 of 2021

R.Ravikumar

... Petitioner

vs

1.The Director General of Police,
Mylapore,
Chennai-600 004.

2.The Deputy Inspector General of Police,
Tiruchirappalli Range,
Tiruchirappalli.

3.The Superintendent of Police,
Pudukkottai District,
District Police Office,
Pudukkottai.

... Respondents

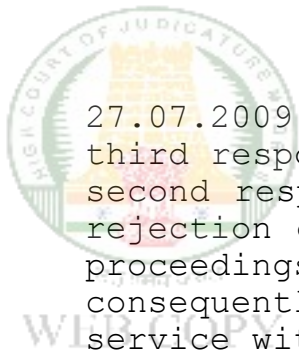
PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records in connection with the impugned order of punishment of dismissal from service on the file of the third respondent in his proceedings K1/PR 69/2004, dated 27.07.2009 as well as consequential rejection of appeal by the second respondent in his impugned proceedings in C.No.B2/APP.20/2009, dated 29.10.2009 and rejection of mercy petition by the first respondent in his impugned proceedings in Rc.No.190778/APIV(1)/2009, dated 07.01.2010 and quash all as illegal and arbitrary and consequently, direct the respondents to reinstate the petitioner in service within the time limit that may be stipulated by this Court.

For Petitioner : Mr.G.Thalaimutharasu

For Respondents : Mr.N.Ramesh Arumugam
Government Advocate (Civil Side)

O R D E R

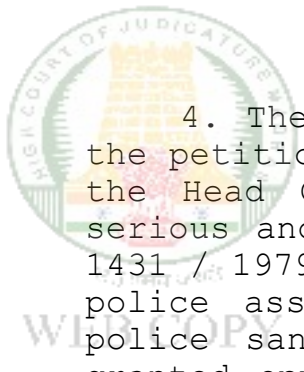
This Writ Petition is filed for issuance of a Writ of
<https://hcservices.courts.gov.in/hcservices/Mandamus>, to quash the impugned order dated



27.07.2009 of punishment of dismissal from service passed by the third respondent as well as consequential rejection of appeal by the second respondent in his impugned proceedings, dated 29.10.2009 and rejection of mercy petition by the first respondent in his impugned proceedings in Rc.No.190778/APIV(1)/2009, dated 07.01.2010 and consequently, direct the respondents to reinstate the petitioner in service within the time limit that may be stipulated by this Court.

2. The petitioner has joined in the Uniformed Service on 09.06.1993 as Grade-II Police Constable and he was the Best Cadet in the Police Training and secured Gold Medal and has undergone Special Training in Small Arms, Pre Course, ADI Course and has discharged his duty with utmost perfection. The claim of the petitioner is that the State has granted permission, vide G.O.Ms.No.1431, Home (Police VII) Department, dated 08.06.1979 followed with G.O.Ms.No.82, Home Department, dated 20.01.1981 for forming Association within the Police Department. In view of the same, in the interest of Police Constabulary on the motivation and guidance of the fellow members, a gathering was made out for forming the Union and representation was made. The petitioner accompanied the said gathering and met the Honourable Chief Minister for forming the Union which resulted in placing the petitioner under suspension, vide order, dated 13.08.2004. Subsequently, charges were framed under Section 3(b) in P.R.No.69/2004, dated 19.08.2004 on two counts i.e., the petitioner had taken medical leave from 21.06.2004 to 15.07.2004. In the meantime on 05.07.2004 without getting prior permission the petitioner left the quarters proceeded to Chennai which is indiscipline and reprehensible conduct. The second charge is that the petitioner met the higher authorities for formation of Sangam which is against the Rules and Regulation of Police Department.

3. The petitioner submitted the explanation on 21.09.2009 and an enquiry was ordered on 20.03.2009. The enquiry report has held that two charges are proved on 01.05.2009. The third respondent has passed the impugned punishment order, dated 27.07.2009, after getting further explanation from the petitioner. The petitioner has preferred an appeal and the same was dismissed on 29.10.2009 and the petitioner submitted mercy petition and the same was dismissed on 07.01.2010. Challenging the said three orders, the present writ petition is filed. The petitioner submitted that he has put in 11 years of service and paragraph 7 has stated that he had realized his mistake whole heartedly and repent for the same. The petitioner submitted that he and his family are literally in streets and suffering, therefore, pleaded to set aside the punishment and reinstate the petitioner in service and also prayed to grant all back wages. Pending this writ petition, the petitioner died on 29.05.2021 due to Covid-19. The petitioner's wife, namely Deveshwari, has filed a petition to substitute herself in this writ petition, in W.M.P. (MD) No. 16077 of 2021 and the same is allowed.



4. The respondents have filed a counter affidavit stating that the petitioner is in disciplined service and the petitioner has left the Head Quarters while he was in medical leave which is very serious and grave charge in a disciplined service. In G.O. Ms. No. 1431 / 1979 and G.O. Ms. No. 18 / 1982 was issued for recognition of police association but did not direct the petitioner to form a police sangam. An enquiry was conducted and the petitioner was granted opportunity. Therefore the petitioner was imposed with the punishment and the same is legally valid.

5. The co-delinquent namely G. Sivasubramanian had filed W.P. (MD) No.1417 / 2006 to quash the impugned punishment, dated 17.10.2007 and the said writ petition was dismissed by the learned Single Judge. Aggrieved over the same, the petitioner has preferred an appeal in W.A.(MD)No.692 of 2009. In the said writ appeal it has been stated that some of them had approached the Tamil Nadu Administrative Tribunal by filing O.A.Nos.170 to 174 of 1999. In that case, the delinquent was punished for only one charge and therefore, it was held that the punishment is disproportionate to the charges framed against the petitioner and has modified the punishment to stoppage of increment for one year without cumulative effect. However, in respect of the said Sivasubramanian in that writ appeal which was almost similar, the order of punishment was based on three grounds for removal from service. The Division Bench has taken into account that for the same incident, the co-delinquent was given lesser punishment. The petitioner in that writ appeal has filed the affidavit stating that he is tendering his unconditional apology and sought sympathy of this Court for reinstating and to grant other service benefits. Taking note of the said facts and the fact that the delinquency are not relating to corruption charges, the Division Bench took lenient view of modifying the punishment. The Division Bench had held that the punishment of removal of service is shocking and disproportionate and therefore said writ appeal was allowed in terms of the undertaking of the delinquent therein, directed the respondents to reinstate without backwages from the date of suspension from service till date of reinstatement. The petitioner in this writ petition relied on the said writ appeal order passed in the case of co-delinquent, prayed to modify the punishment.

6. This Court after perusing the entire records, taking note of the fact that the co-delinquent's punishment were reduced and taking note of the fact that the petitioner died on 29.05.2021 due to Covid-19, this Court directs the respondents to modify the punishment of stoppage of increment for three months without cumulative effect. Thereafter, the entire terminal benefits shall be disbursed to the deceased delinquent family and also grant pension and other monetary benefits, which the deceased is entitled to and the said exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of this order.



7. Therefore, the Writ Petition is allowed. No costs.
Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (A.D.II)

// True Copy //

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Sub Assistant Registrar(CS)

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To

- 1.The Director General of Police,
Mylapore,
Chennai-600 004.
- 2.The Deputy Inspector General of Police,
Tiruchirappalli Range,
Tiruchirappalli.
- 3.The Superintendent of Police,
Pudukkottai District,
District Police Office,
Pudukkottai.

+1 CC to M/s.SPL GP (SR-40258[F] dated 23/12/2021)

W.P. (MD)No.18358 of 2016 and
W.M.P. (MD)No.12677 of 2021
23.12.2021

RK(24.01.2022) 4P 5C