



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.12.2021

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P. (MD)No.22774 of 2016

and

W.M.P. (MD)Nos.16284, 16285 & 16286 of 2016

and

W.M.P. (MD)No.1558 of 2020 & 19427 of 2021

WEB COPY

G.Karthigai Selvam

... Petitioner

vs

1.The State represented by
The Principle Secretary,
St. George Fort,
Chennai.

2.The Director General of Police,
Chennai - 600004,
Tamil Nadu.

3.The Deputy Inspector General of Police,
Madurai Range, (i/c) Ramanathapuram Range,
Madurai.

4.The Superintendent of Police,
Sivagangai District.

... Respondents

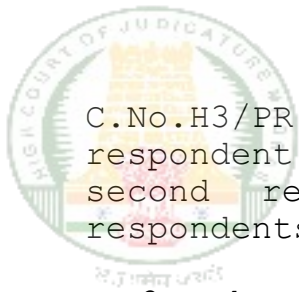
PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to C.No.H3/PR.No.40/2014 dated 24.11.2014 passed by the fourth respondent and its consequential confirmation order passed by the second respondent in Rc.No.26636/108/AP.I(2)/2016, dated 01.06.2016 and quash the same as illegal and further direct the respondents to reinstate the petitioner in the service with all back wages.

For Petitioner : Mr.C.Senthil Murugan

For Respondents : Mr.D.Sachi 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 records pertaining to
<https://hcservices.ecourts.gov.in/hcservices/>



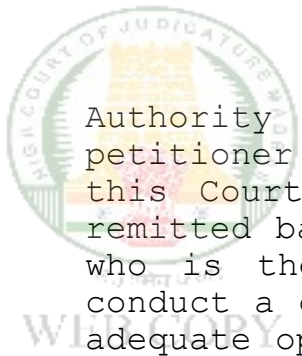
C.No.H3/PR.No.40/2014 dated 24.11.2014 passed by the fourth respondent and its consequential confirmation order passed by the second respondent, dated 01.06.2016 and further direct the respondents to reinstate me in the service with all back wages.

2. The petitioner had joined the Police Department in the year 2002, then was transferred to Delhi and he has served in Delhi from 2004-2006. In the year 2007, he was again transferred to Chennai and then to Ramanathapuram and in the year 2014, the petitioner was at Pzhuthipatti Police Station. On 03.03.2014 due to severe diarrhea the petitioner took leave without getting prior permission. While he was waiting for the bus, suddenly the petitioner fainted and fell into the ditch and broke his legs. The fourth respondent, vide order, dated 02.05.2014 has issued an order of "deserter from service". On 02.03.2014, the petitioner was taking treatment in Government Hospital, thereafter, the petitioner has obtained the Medical Fitness Certificate. The fourth respondent has issued a Charge Memo in P.R.No.40/2014 and the petitioner appeared and submitted an explanation. An enquiry was conducted and the charges were held proved vide enquiry report, dated 19.11.2014. On 19.11.2014, the fourth respondent has called for further explanation within 15 days. Thereafter, the fourth respondent passed an order by giving voluntary retirement to the petitioner, dated 24.11.2014. Aggrieved over the same, the petitioner has preferred an appeal to the third respondent with his medical certificate for the period from 02.03.2014 to 19.11.2014 and also submitted his fitness certificate. But the Appellate Authority has rejected the appeal and the petitioner has preferred a mercy petition, that was also rejected. Aggrieved over the same, the present writ petition is filed.

3. The respondents have filed a counter affidavit stating that since the petitioner is serving in Uniform service and the charges against the petitioner was unauthorized absence, the charges are grave in nature. After taking into consideration his age and other factors, the petitioner was granted Voluntary retirement of service from 24.11.2015. The enquiry was conducted as prescribed by the rules and by granting adequate opportunity. Before imposing the major punishment, an explanation was called for from the petitioner. Moreover, the petitioner was facing three delinquencies for the prior period and the petitioner was involved in Crime No.510 of 2012. Moreover, the charges for other delinquencies are taken into consideration, before passing the order of Voluntary retirement.

4. Heard Mr.C.Senthil Murugan, learned Counsel appearing for the petitioner and Mr.D.Sachi Kumar, learned Additional Government Pleader appearing for the respondents.

5. The claim of the petitioner is that while enquiry was conducted, the Medical Certificates and Medical Fitness Certificates were submitted before the Appellate Authority, but the Appellate



Authority did not consider those certificates. Therefore, the petitioner is seeking to reconsider the entire issue. Therefore, this Court is setting aside the impugned orders and the case is remitted back to the Superintendent of Police, Sivagangai District, who is the fourth respondent, to consider the entire issue and conduct a denova proceedings and pass a speaking order after giving adequate opportunity. The petitioner is directed to submit all the relevant documents before the authority. If needed, additional explanation may also to be submitted to the authority. The entire exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order.

6. With the above direction, the Writ Petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

jbr

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 Principle Secretary,
St. George Fort, Chennai.
- 2.The Director General of Police,
Chennai - 600004, Tamil Nadu.
- 3.The Deputy Inspector General of Police,
Madurai Range, (i/c) Ramanathapuram Range,
Madurai.
- 4.The Superintendent of Police,
Sivagangai District.

+1 CC to M/s.C.SENTHIL MURUGAN, Advocate (SR-40427[F] dated 27/12/2021)

+1 CC to M/s.SPL GP (SR-40480[F] dated 27/12/2021)

W.P. (MD)No.22774 of 2016

23.12.2021

RD/CK(07.02.2022) 3P 7C

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