



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.12.2021

CORAM

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

W.P.(MD)No.19976 of 2017

and

W.M.P.(MD)No.16256 of 2017

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K.Vijaykumar

... Petitioner

vs.

1.The Director General of Police,
Chennai-4.

2.The Additional Director General of Police,
Chennai-4.

3.The Superintendent of Prison,
District Prison, Ramanathapuram District.

4.The Superintendent,
Central Prison, Madurai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records relating to the proceedings of the impugned order, dated 27.07.2017, in No.43706/இடபிள்யூ.1/2016 on the file of the second respondent and to quash the same and further to direct the respondents to reinstate the petitioner.

For Petitioner : **(*)Mr.E.Marees Kumar**

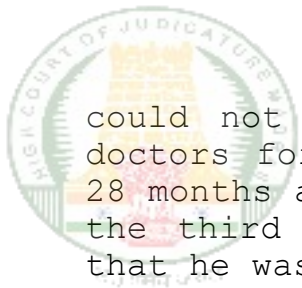
For Respondents : M/s.D.Farjana Ghoushia

Special Government Pleader

O R D E R

This Writ Petition is filed for issuance of a Writ of Certiorari, to call for the records relating to the proceedings of the impugned order, dated 27.07.2017, in No.43706/இடபிள்யூ.1/2016 on the file of the second respondent and to quash the same and further to direct the respondents to reinstate the petitioner.

2.The petitioner is qualified M.A. (History). In 2008, he was appointed as Grade II Warder through direct recruitment and initially he was posted in Central Prison, Cuddalore. Thereafter, transferred to Ramanathapuram as Grade II Warder. The petitioner alleges that he was frequently humiliated by the higher authorities. Therefore, he underwent heavy depression and he took medical leave from 22.11.2014 to 11.12.2014. Thereafter, from 12.12.2014 to 21.12.2014 along with the medical certificate. Thereafter, also he



could not join duty because of depression and he was treated by doctors for Hepatitis as well as depression and he was treated for 28 months and he was cured during November 2016. When he approached the third respondent and requested to join duty, he was informed that he was removed from service.

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3.The petitioner submitted a representation, dated 28.02.2017 and the fourth respondent through proceedings, dated 28.02.2017, informed the petitioner that an exparte order was passed and thereafter, he was removed from service. The petitioner submitted a review application before the second respondent. But the second respondent passed an order, dated 27.07.2017, rejecting the review application of the petitioner. Now the petitioner submits since the second respondent is the appellate authority, he has passed an order under revisional power, thereby, his opportunity to appeal was denied.

4.The respondents have filed a counter affidavit, naratting that the enquiry was conducted and charge memo was issued to the petitioner and it was addressed to his residential address. Since he was not available at his residence, a charge memo copy was handed over to his brother and his brother has stated that the petitioner's availability is not known to the entire family. Thereafter, an Enquiry Officer was appointed.

5.Since the petitioner was not available in his residence, the proceedings sent to him was returned stating that he left from the address. Thereafter, the enquiry was conducted without the petitioner. An exparte order was passed. Based on the enquiry report, the petitioner was removed from service.

6.Heard (*)**Mr.E.Marees Kumar**, learned Counsel appearing for the petitioner and M/s.D.Farjana Ghoushia, learned Special Government Pleader appearing for the respondents.

7.As rightly pointed out by the learned Counsel appearing for the petitioner, the petitioner was not heard and the petitioner could not receive the notice because, he was not in his residential address. The plea of the petitioner that his chance of appeal was denied because the impugned order passed by the revisional authority is also acceptable. The plea that the petitioner was depressed during that period ought to be proved through evidence.

8.Since there is violation of principles of natural justice, this Court is inclined to set aside the impugned order and direct the fourth respondent to conduct denova enquiry and pass an order after giving adequate opportunity to the petitioner. The petitioner is directed to receive notice and attend the enquiry properly without any leave or without any refusal. The enquiry shall be concluded within a period of four months and thereafter, the fourth respondent is directed to pass appropriate order.



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

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**(*)Amended as per order of this
Hon'ble Court dated 20.01.2022
made in WP(MD)No.19976 of 2017**

Sd/-

Assistant Registrar (CS-III)

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

Tmg

To

**(*)To be Substituted the order already despatched
on 28.12.2021**

- 1.The Director General of Police,
Chennai-4.
- 2.The Additional Director General of Police,
Chennai-4.
- 3.The Superintendent of Prison,
District Prison, Ramanathapuram District.
- 4.The Superintendent,
Central Prison, Madurai.

+1 CC to M/s.E.MAREES KUMAR, Advocate (SR-38448[F]
dated 13/12/2021)

+1 CC to M/s.SPL GP (SR-38302[F] dated 13/12/2021)

W.P. (MD)No.19976 of 2017
10.12.2021

RD(23.12.2021) 3P 7C
NA(CO)
GC(16.02.2022) 3P 7C