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W.P.No.27077 of 2008

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 06.09.2022

PRONOUNCED ON : 30.09.2022

CORAM:

THE HON'BLE MR.JUSTICE K. KUMARESH BABU

W.P.No.27077 of 2008
and W.M.P.No.1 of 2008

P.Alagiri

... Petitioner

VS

1. Director General of Police,
Chennai – 600 004.
Tamil Nadu.

2. The Commandant,
Tamil Nadu Special Police,
X Battalion Ulundrpet.

... Respondents

Certiorarified Mandamus calling for records relating to the proceeding in C.No.A4/PR 35 of 2005 – B.O.No.432 of 2005 dated 27.10.2005 of the 2nd respondent as confirmed by the 1st respondent in the proceeding in R.C.No.79582/AP3(1)2007 dated 04.05.2008 and quash the same and consequently, to direct the 2nd respondent to reinstate the petitioner in the service with backwages and continuity of seniority and all attendant service benefits due to the petitioner.

For Petitioner : Mr.M.Gnana Sekar
for Mr.T.Gnana Babu

For Respondents : Mr.C.Selvaraj
Additional Government Pleader



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ORDER

This instant Writ Petition is filed challenging the order of the 2nd respondent dated 27.10.2005, wherein, the petitioner was removed from service for having conducted himself in a manner which would bring disrepute to the Police Department and also that he suppressed the fact of his involvement in a criminal case and obtaining of a anticipatory bail in same from the higher authorities.

2.Heard Mr.M.Gnana Sekar, learned counsel for the petitioner and Mr.C.Selvaraj, learned Additional Government Pleader appearing for the respondents.

3.The learned counsel for the petitioner would vehemently contend that the petitioner had been issued with a charge memo by the 2nd respondent on 08.07.2005 on certain illusory allegations. Refuting the said charge he had also submitted his explanation on 05.09.2005. An enquiry was conducted and the enquiry officer had submitted a report holding that both the charges have been proved. He had also submitted his explanation to the enquiry report submitted by the Enquiry Officer. The 1st respondent without considering the same had Awarded a punishment of removal from service



which is very much disproportionate since the charges leveled against him are all imaginary and has been made without any basis. He would submit that he had also been discharged in the said criminal case as none of the witnesses turned up for deposing against him. He had also filed an mercy petition before the Director General of Police, the 1st respondent herein who had also without considering the plight of the petitioner had confirmed the order of removal from service. He would contend that neither the 1st nor the 2nd respondent had considered the case of the petitioner in the proper perspective and therefore, sought interference of this Court in setting aside the order of removal from service.

4. Countering the arguments, the learned Government Pleader would submit that the petitioner had not only conducted himself in public place in such manner which would bring disrepute to the police force but had also suppressed the criminal case against him and the anticipatory bail that was obtained by him, to the higher officials. This itself is a serious misconduct. He had argued that there was no procedural infirmity or perversity in passing the impugned order. He also further pleaded that the petitioner had not preferred any appeal whatsoever against the said order of dismissal. However, he had only submitted a mercy petition to the 1st respondent, which was also rejected by the Director General of Police. Hence, he argued



that the Writ Petition itself is not maintainable as he had not exhausted his alternative remedy.

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5.I have considered the arguments of the learned counsel appearing on either side and perused the materials available on record before this Court.

6.The charges against the petitioner is that he had conducted himself in a manner to bring disrepute to the police force. The imputation of the said charge is that he had been having an affair with one Sujatha and has been going around to various places with her and had illicit affair with her on the assurance of marrying her. This has been witnessed by many people. The petitioner had also not denied his relationship with the said Sujatha. That apart, the said lady had also lodged a complaint against the petitioner for certain grave offence in Crime No.42 of 2005 which culminated to CC.No.204 of 2005 on the file of the Judicial Magistrate - III, Vellore. He had also obtained an anticipatory bail in M.P.No.3872 of 2005 before the District Court, Vellore on 02.06.2005. The 2nd charge was that he had suppressed about the aforesaid criminal case and obtaining of anticipatory bail to the higher authorities which is also a grave misconduct. As a member of the police force were not supposed to get involve in any criminal offence that too such a grave offence.



W.P.No.27077 of 2008

WEB COPY

7.It is not the case of the petitioner that he had intimated the lodging of the criminal case against him and his obtaining a anticipatory bail in M.P.3872 of 2005 to the higher authorities immediately. His argument that he had been discharged from the criminal case as no witnesses turned to depose evidence would be of no consequence as during the disciplinary proceedings various witnesses have deposed that the petitioner was seen in an uncompromising position in public places which definitely bring disrepute to the police force. That apart his action of suppressing his involvement in a criminal case would also fortify that he has failed in performance of his duty. Hence, I am of the view that the order of dismissal passed by the 2nd respondent and the order of the 1st respondent rejecting his mercy petition does not require any interference as the petitioner had failed to show any irregularity or perversity in passing the impugned order.

8.Accordingly, the Writ Petition is dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is also closed.

30.09.2022

Index: Yes/no
Speaking
gba



W.P.No.27077 of 2008

To

1. Director General of Police,
Chennai – 600 004.
Tamil Nadu.

2. The Commandant,
Tamil Nadu Special Police,
X Battalion Ulundrpet.

K. KUMARESH BABU, J.

gba

A Pre-delivery order in
W.P.No.27077 of 2008
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30.09.2022