



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22/2/2022

C O R A M

THE HON'BLE MR.JUSTICE V.PARTHIBAN

Writ Petition No.35707 of 2016

a n d

W.M.P.No.30692 of 2016

I. Arumugam ... Petitioner

Vs

1. The Inspector General of Police
Police Department
Puducherry.

2. The Commandant (Home Guards)
Puducherry. ... Respondents

Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus, to call for the records of the second respondent in No.52/SP (HG)/SR/99 dated 15/4/1999 and No.1/SP (HG)/2015/OW/80 dated 9/7/2015 and to quash the same and consequently, to direct the second respondent to reinstate into service as Home Guard with effect from 15/4/1999, the date on which the petitioner services were terminated with all other consequential benefits including regular absorption in the post of M.T.S based on seniority.

For petitioner ... Mr.V.Ajayakumar

For respondents ... Mr.R.Syed Mustafa
Special Government Pleader
(Pondicherry)

- - - - -
O R D E R

This writ petition has been filed to quash the orders passed by the second respondent, dated 15/4/1999 and 9/7/2015 and consequently, direct the second respondent to reinstate the petitioner into service as Home Guard with effect from 15/4/1999, the date on which the petitioner's services were terminated with all other consequential benefits including regular absorption in the post of M.T.S based on seniority.

2. The case of the petitioner is that he was appointed as Home Guard in the Police Department, Puducherry on 9/1/1992. The petitioner was issued with a charge memo stating that he was involved in a criminal case in Crime No.73



of 1999 and charged under Sections 147, 148, 452, 345 and 427 of the Indian Penal Code and was arrested on 14/3/1999. Since it is a dispute between the members of Scheduled Caste hamlet, all the persons available were arrayed as accused. Subsequently, the petitioner was dismissed from service on 15/4/1999. As against the termination order of the petitioner, dated 15/4/1999, petitioner is before this Court, praying for the relief as stated supra.

3. According to the petitioner that the criminal case had ended in acquittal, vide, order, dated 9/7/2015 and therefore, he is entitled to be reinstated in service.

4. After notice, counter affidavit has been filed. In the counter affidavit, it is stated that there are as many as five criminal cases were registered in Crime Nos.73/99, 97/99, 146/2000, 129/2007, 259/2007 against him, under various Sections of the Indian Penal Code. Moreover, the petitioner had crossed the age of 50 years. Age limit for employing Home Guard in terms of the Standing Order applicable to the Union of Pondicherry was 50 years and the petitioner having crossed the age of 50 years as of now, is not entitled to be reinstated.

5. The pendency of several criminal cases against him are not in dispute. However, the learned counsel for the petitioner attempted to argue the case as if the petitioner by virtue of his acquittal in one criminal case, is entitled for reinstatement as a Home Guard. This Court is unable to countenance the submission of the learned counsel for the petitioner for two good reasons.

(i). Firstly, the petitioner is facing several criminal cases, initiated against him under various provisions of the Indian Penal Code. By virtue of the pending of criminal cases, initiated against the petitioner, the petitioner has lost his right to be included in the disciplinary post like Home Guard.

(ii). Secondly, the petitioner is more than 50 years old and therefore not entitled to be inducted to the post of Home Guard in terms of the Rules as applicable in the Union Territory of Pondicherry.

6. For both the reasons, the relief sought by the petitioner, cannot be granted.

7. In the result, this writ petition is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//



mvs.

To

1. The Inspector General of Police
Police Department
Puducherry.

2. The Commandant (Home Guards)
Puducherry.

+1 cc to Mr.V.Ajayakumar, Advocate Sr.NO. 11701

+1 cc to Government Pleader Sr.NO. 12214

Writ Petition No.35707 of 2016

GPL(CO)

A.SK(16/03/2022)