



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 04.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

W.P(MD)No.4341 of 2020

and

WMP(MD)Nos.13605 and 13606 of 2020

V.Devaki

... Petitioner

Vs

1.The Additional Superintendent of Police,
(Technical) Planning,
PTB, Chennai.

2.The Deputy Inspector General of Police,
(Technical Service),
Chennai - 4.

3.The Inspector General of Police,
Technical Services,
Chennai - 4.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of certiorarified mandamus, calling for the records pertaining to the impugned proceedings No.C1/Appeal.3/2017, dated 09.11.2017 passed by the 3rd respondent and quash the same as illegal, ultravires and natural justice principle and consequently directing the respondent Nos.2 and 3 to give all monetary benefits with proper promotion to the petitioner.

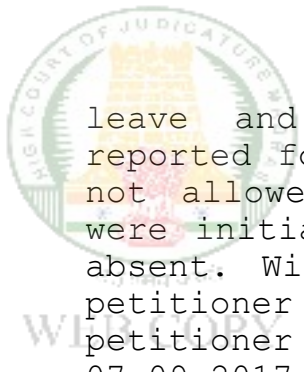
For Petitioner : Mr.G.Thalai Mutharasu
for P.Krishnasamy

For Respondents : Mr.G.V.Vairam Santhosh,
Additional Government Pleader

ORDER

This writ petition is filed as against the punishment imposed on the petitioner by order dated 09.11.2017.

2.The learned Counsel for the petitioner submits that the petitioner is working as Sub-Inspector of Police (Technical) Police Telecommunication Branch, Tuticorin from 14.09.2004. The petitioner, while working so, due to medical reasons applied for medical leave to the respondents for taking treatment for back pain, but the same was not considered. With no other option, the petitioner went on



leave and took treatment. Unfortunately, when the petitioner reported for duty, after taking treatment for her illness, she was not allowed to join duty. Subsequently, disciplinary proceedings were initiated against the petitioner that she was on unauthorised absent. Without even providing any opportunity of hearing to the petitioner a punishment of stoppage of increment was imposed on the petitioner by the disciplinary authority vide proceedings dated 07.09.2017. Challenging the punishment the petitioner filed an appeal before the third respondent, who has also without affording any opportunity of hearing rejected the appeal by order dated 09.11.2017. Aggrieved over the same, the petitioner is before this Court.

3.The learned Additional Government Pleader appearing for the respondents submits that the petitioner was transferred from Pudukottai to Chennai city and was relieved from duty on 01.10.2015 and she has availed the joining time from 01.10.2015 to 07.10.2015. However, the petitioner, who had to report for duty on 08.10.2015 had not joined duty and was absent for duty from 08.10.2015 to 06.11.2015. While so, a medical leave certificate was received from the petitioner on 06.11.2015. Therefore, the petitioner was referred to the medical board and the medical board after examining the petitioner on 09.02.2016 found that the petitioner to be fit to resume duty from 10.02.2016 and also found that the medical certificate produced by the petitioner for the period from 08.10.2015 to 09.02.2016 is not justified for want of proper treatment particulars. According to the medical board the petitioner had to join duty on 10.02.2016, but she did not do so. However, she joined duty on 11.09.2017. For the misconduct on the part of the petitioner, namely, availing medical leave without permission from 08.10.2015 to 06.11.2015 and for being absent for duty from 07.11.2015 to 10.09.2017, disciplinary proceedings were initiated against the petitioner under the Tamil Nadu Police Subordinate Service (Discipline and Appeal) Rules, 1955. Based on the report of the enquiry officer, punishment of postponement of increment for one year without cumulative effect was imposed on the petitioner by the second respondent Deputy Inspector General of Police, Technical Services, Chennai by proceedings dated 07.09.2017. Challenging the same the petitioner has filed an appeal before the third respondent, the Inspector General of Police, Technical Services, Chennai, who in turn by his order dated 09.11.2017 rejected the appeal by confirming the punishment imposed on the petitioner.

4.This Court paid its anxious consideration to the rival submissions and perused the materials placed on record.

5.The petitioner, who is working as a Sub-Inspector of Police was transferred from Pudukottai to Chennai and was relieved from duty on 01.10.2015 with the joining time till 08.10.2015. The petitioner claims that since she was having certain health issues, she availed medical leave from 08.10.2015. According to the



respondents only on 06.11.2015 they have received a medical certificate from the petitioner. The petitioner was subsequently, referred to the medical board at the Government Rajaji Hospital Madurai. The medical board which examined the petitioner on 09.02.2016, found her to be fit for resuming the duty on 10.02.2016. Further, the medical certificate produced by the petitioner, according to the medical board, could not be regularised for want of proper treatment particulars. Even though the board found the petitioner to be fit for resuming her work, even she did not join duty on 10.02.2016. Therefore, departmental proceedings were initiated and in conclusion of the same, she was imposed with a punishment of postponement of increment for one year on 07.09.2017, challenging the same, she has filed appeal, which was also rejected on 09.11.2017.

6.The medical certificate produced by the petitioner was not justified by the medical board for want of proper treatment particulars. The main contention of the petitioner is that she suffered back pain, therefore, she availed leave and took treatment. However, she has not substantiated the same by producing the relevant medical records before the medical board. Even after the petitioner was found to be fit for joining duty, she has not joined the duty. The discipline in the Uniformed Services is paramount important and the petitioner has to bear this in mind.

7.This Court does not find any ground to interfere with the impugned order. Therefore, this writ petition stands dismissed. However, the learned Counsel for the petitioner pleaded that the punishment period is over and the petitioner name be considered for promotion. The respondents shall consider the petitioner for promotion if she fulfils all the eligibility criteria. No costs. Consequently, connected miscellaneous petitions are also dismissed.

Sd/-

Deputy Registrar(A/Cs)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

dsk

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 Additional Superintendent of Police,
(Technical) Planning,
PTB, Chennai.

2.The Deputy Inspector General of Police,
(Technical Service),
Chennai - 4.

3.The Inspector General of Police,
Technical Services,
Chennai - 4.

+1 CC to M/s.P.KRISHNASAMY, Advocate (SR-274[F] dated 05/01/2022)

+1 CC to M/s.SPL GP (SR-370[F] dated 05/01/2022)

W.P(MD)No.4341 of 2020
04.01.2022

TR(18.03.2022) 4P 6C