



WP(MD)Nos.10791 & 10792 of 2019

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **26.07.2022**

CORAM:

THE HONOURABLE **MR.JUSTICE M.S.RAMESH**

W.P.(MD)Nos.10791 & 10792 of 2019

and

W.M.P.(MD)Nos.8238 to 8241 of 2019

A.Ragu

...Petitioner in WP(MD)No.10791 of 2019

J.Ganesh

...Petitioner in WP(MD)No.10792 of 2019

/vs./

- 1.The Director General of Police,  
Tamil Nadu,  
Chennai.
- 2.The Deputy Inspector General of Police,  
Dindigul Region,  
Dindigul.
- 3.The Superintendent of Police,  
Theni District,  
Theni.
- 4.V.Baskaran,  
The Superintendent of Police,  
Theni District,  
Theni.



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5.The Inspector of Police,  
Armed Reserve & District Special Branch,  
Theni.

6.Seenivasan,  
S/o.Ramasamy,  
Inspector of Police,  
Armed Reserve & District Special Branch,  
Theni.

...Respondents in both Wps

COMMON 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 orders made in PR-38/F1/2018 and PR-37/F1/2018 both dated 15.10.2018 passed by the 3rd respondent confirmed in the impugned orders made in Rc.No.AP-05/A2/2019 and Rc.No.AP-06/A2/2019 both dated 22.03.2019 passed by the 2<sup>nd</sup> respondent and quash the same and consequently direct the respondents No.1 to 3 to reinstate the petitioners into service with all back wages, continuity of service and other benefits.

For Petitioners : Mr.P.R.Prithiviraj (in both WPs)

For Respondents : Mrs.D.Farjana Ghoushia (in both WPs)

Special Government Pleader (for R1 to R5)



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**COMMON ORDER**

Based on the charges relating to an incident, whereby the petitioners herein had poured inflammable liquid to self-immolate themselves in a protected area of the Police Head Quarters at Chennai in police uniforms and later, spoke to the media on certain atrocities in a disciplined police force, a domestic enquiry came to be conducted. Criminal cases were also registered against the petitioners and the petitioners herein were also been arrested. During the course of enquiry, the petitioners had not participated in the proceedings. The enquiry officer held the charges against the petitioners to have been proved, based on which, the disciplinary authority had imposed the punishment of removal from service, through the impugned orders dated 15.10.2018.

2.As against the orders of the disciplinary authority, the petitioners preferred appeal petitions before the second respondent herein under Rule 3(b) of the Tamil Nadu Police Subordinate Services (Discipline and Appeal) Rules, 1955 [hereinafter referred to as “aforesaid Rules” for brevity]. Though the petitioners herein had raised several grounds in the appeal petitions, dated 13.11.2018, the



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second respondent herein, through cryptic orders dated 22.03.2019, rejected the appeal petitions in a single sentence stating that the petitioners had not put forth any fresh points in their appeal petitions and that the punishment awarded by the third respondent herein was not excessive.

3.Rule 6 of the aforesaid Rules provides that incase of an appeal against the order imposing any penalty under Rule 2, which includes removal from service also, the appellate authority is required to consider as to whether the facts, on which the order was passed, have been established; whether the facts would be afforded sufficient grounds for taking action; and whether the penalty imposed was excessive, adequate or inadequate.

4.In the instant case, none of the procedural requirements for disposing of the appeal petitions has been followed by the second respondent herein. On the other hand, satisfaction, that was arrived at by the second respondent herein, while disposing of the petitioners' appeal petitions has been done in the following manner:

*“I have gone through his petitions along with the*



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*explanation submitted by him, the PR File and other connected records carefully, including his second appeal. He has not putforth any fresh points in his appeal petition and taking into considering the gravity of charges pending on him which is proved against him, I could not find any merit that warrants further intervention in this PR. The punishment awarded to him by the Superintendent of Police, Theni District is not excessive. I therefore decline to interfere with the punishment and taking in to consideration the gravity of charges proved against him. Hence reject his appeal petition and confirm the punishment awarded by the Superintendent of Police, Theni District (ie) punishing authority to the delinquent.”*

5. In view of the deviation from the procedural requirements of Rule 6 of the aforesaid Rules by the second respondent herein, the impugned orders cannot be sustained.

6. At this stage, the learned counsel appearing for the petitioners submitted that the delinquencies attributed to the petitioners herein were committed at a very young age when the petitioners herein had not realised the seriousness of their misconducts. The petitioners also tendered their unconditional apology for their indulgence in the misconducts and undertook not to commit any other



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misconducts in future and that they would observe / adhere to strict discipline during the rest of their service career, if some leniency is extended to them and they are reinstated back into service. It is further submitted that the petitioners are willing to forego their backwages during the period of their non-employment.

7.This Court is of the view that such a discretion may vest only with the second or the first respondent herein and this Court may not be justified in accepting such a sympathetic plea. By taking into consideration of the petitioners' age and the unconditional apology tendered before this Court for the delinquencies committed by them, this Court recommends to the second and third respondents herein to consider the petitioners' sympathetic plea, while imposing a lesser punishment.

8.In view of the observations and findings made in this order, the orders of the second respondent dated 22.03.2019 are hereby set aside and the matters are remanded back to the second respondent for fresh consideration. The petitioners are at liberty to file rejoinders to the grounds of appeals already made by them dated 13.11.2008, whereby it is open to them to tender unconditional apology and



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seek for a lesser punishment. On receipt of such rejoinders, the second respondent herein shall consider the same in accordance with the observations made in this order and pass final orders, within a period of three (3) months from the date of receipt of such rejoinders. These Writ Petitions stand ordered accordingly. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

**26.07.2022**

Index : Yes / No

Internet : Yes / No

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**M.S.RAMESH, J.**

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Common Order made in  
W.P.(MD)Nos.10791 & 10792 of 2019

Dated:  
26.07.2022