



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.02.2022

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.16245 of 2019

M.Mahalakshmi

... Petitioner

-vs-

1.The Government of Tamil Nadu,
Rep., by the Principal Secretary,
Department of Home, Secretariat,
Chennai.

2.The Director General of
Police (Law and Order),
Kamarajar Salai, Mylapore,
Chennai-600 004.

3.The Inspector General of Police,
West Zone, Coimbatore Range,
Coimbatore District.

4.The Superintendent of Police,
District Police Headquarters,
Nilgiris District.

5.The Superintendent of Police,
District Police Headquarters,
Virudhunagar District.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records pertaining to Impugned Orders in Na.Ka.No.H1/tha.pa.79/2012 dated 06.11.2012 on the file of the Respondent No.4 and the consequential impugned orders in C.No.D2/209/2013 dated .01.2013 on the file of the Respondent No.3 and Rc.No.106283/AP.I(1)/2014 dated 24.06.2015 on the file of the Respondent No.2 and quash the same as illegal and consequently for a direction, directing the Respondent No.4 to bestow the entitled increments to the petitioner with all consequential benefits within the time period stipulated by this Court.

For Petitioner : Mr.T.Lajapathi Roy

For Respondents : Mr.A.K.Manikkam,
Special Government Pleader



O R D E R

The order of punishment of stoppage of increment for one year with cumulative effect issued by the respondent is under challenge in the present writ petition.

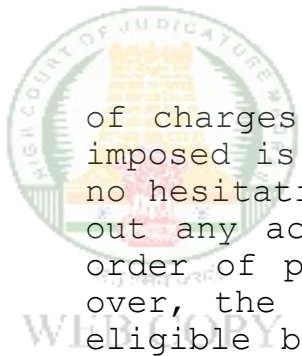
2.The writ petitioner was appointed as Police Constable on 01.03.2008 and on account of her illness, she could not able to attend her duty. The petitioner, during the relevant period of time, had not submitted any leave application, nor informed to the higher authorities. Thus, departmental disciplinary proceedings were initiated against her under Rule 3(b) of the Tamil Nadu Police Subordinate Service (Discipline and Appeal) Rules, 1955. The authorities conducted an enquiry and passed an order of punishment imposing the punishment of stoppage of increment for one year with cumulative effect. The original order of punishment passed by the Superintendent of Police, District Police Headquarters, Nilgiri District, the 4th respondent, reveals that the petitioner was unauthorizedly absent for a period of five months and without any intimation to the Department.

3.Perusal of the order, which is under challenge in the writ petition, reveals that the petitioner was absent from attending duty without applying for any leave or permission from the competent authorities.

4.Learned counsel appearing for the petitioner made a submission that the petitioner was taking treatment during the relevant point of time and she could not able to submit proper leave application. The petitioner was not in a position to submit any such leave application on account of her illness.

5.The Conduct Rules require that the uniform personnel, even in such circumstances, provide intimation through the next person, relative or through any other colleagues or otherwise. In order to circumvent the allegation of unauthorized absence, the petitioner cannot merely say that she was taking treatment and therefore, no leave application was filed. If such explanation is accepted, then every officers claim that he or she was not in a position to submit an application. Therefore, the unauthorized absence must be condoned. Even in extreme circumstances, the next person must provide an intimation to the Department. In the present case, absolutely there is no permission or intimation given to the higher officials and therefore, the departmental disciplinary proceedings were initiated. Except the above explanation, no other ground to defend the charges was raised. The authorities considering the charge that the petitioner was unauthorizedly absent for about five months, imposed the punishment of postponement of increment for one year with cumulative effect.

6.This Court is of the considered opinion that such a submission cannot be considered as disproportionate to the gravity



of charges proved against the petitioner. In fact, the punishment imposed is reasonable and under these circumstances, this Court has no hesitation in forming an opinion that the petitioner has not made out any acceptable ground for the purpose of interfering with the order of punishment. It is made clear that after the currency is over, the case of the petitioner is to be considered for all other eligible benefits including promotion on merits and in accordance with law.

7. With the above observations, this Writ Petition stands dismissed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar (Writs)

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/ /2022

Sub Assistant Registrar (CS)

To

1. The Principal Secretary to Government,
The Government of Tamil Nadu,
Department of Home, Secretariat, Chennai.

2. The Director General of
Police (Law and Order),
Kamarajar Salai, Mylapore,
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3. The Inspector General of Police,
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4. The Superintendent of Police,
District Police Headquarters,
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5. The Superintendent of Police,
District Police Headquarters,
Virudhunagar District.

+1 CC to M/s.SPL.GP (SR-4982[F] dated 09/02/2022)

+1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-4916[F] dated 09/02/2022)

W.P. (MD) No.16245 of 2019
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MK/18.02.2022/3P/8C