



W.P(MD)No.17318 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.11.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.17318 of 2019

M.Anguraj

... Petitioner

Vs.

1.The Additional Director General of Police/Director of Civil
Defence & Additional Commandant General of Home Guards,
TamilNadu Home Guards,
O/o.Director General of Police,
Mylapore, Chennai – 600 004.

2.The Inspector General of Police,
Home Guards,
O/o.Director General of Police,
Mylapore, Chennai – 600 004.

3.The District Superintendent of Police,
Thoothukudi District,
Collector Office Campus,
Korampallam,
Thoothukudi – 628 101.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order dated 11-07-2019 in RC.No.A1/1653/DCD&HG/2019 passed by the 1st Respondent is illegal and



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quash the same and consequently directing the respondents herein to reinstate the petitioner in service of Home Guards within a stipulated time.

For Petitioner : Mr.Saravanan

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

ORDER

Heard the learned counsel for the writ petitioner and the Special Government Pleader for the respondents.

2.By the impugned order dated 11.07.2019, the petitioner was removed from his position as a member of the Tamil Nadu Home Guard. My attention is drawn to Section 13 of the Tamil Nadu Home Guard Act, 1963. It reads as under:-

“13. Suspension or removal. - (1) The Commissioner of Police in the City of [Chennai] and the Superintendent of Police in a district may, by order in writing, suspend or remove from the Home Guard any member of the Home Guard under his control,-

(a) who on being called out by an order under section 6 without reasonable cause neglects or refuses-

(i) to obey such order,



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(ii) to exercise the powers, discharge the duties and perform the functions as a member of the Home Guard, or

(iii) to obey any lawful order or direction given to him for the exercise of the powers, discharge of the duties and performance of the functions as a member of the Home Guard, or

(b) who is guilty of any breach of discipline or of any misconduct.

(2) No order under sub-section (1) shall be passed unless the member of the Home Guard affected by such order is given an opportunity to be heard in his defence.

(3) The suspension or removal of a member of the Home Guard under this section shall be in addition to any penalty to which such member may be liable under any other law for the time being in force.”

3.From a reading of the impugned order, one can safely come to the conclusion that the impugned order has been passed without giving the writ petitioner an opportunity to be heard in his defence.

4.In this view of the matter, the impugned order is set aside and the matter is remitted to the file of the third respondent to pass an order afresh on merits and in accordance with law within a period of eight weeks from the date of receipt of a copy of this order. The petitioner shall be deemed to have been reinstated as a member of Home Guard. It is open to the third respondent to initiate action against the writ petitioner in accordance with law.



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G.R.SWAMINATHAN, J.

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5.With this liberty to the third respondent, the writ petition is allowed.

No costs.

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Index : Yes / No

Internet : Yes/ No

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