



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.10.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) No.18193 of 2020

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Selvam

... Petitioner

Vs.

1. The Director General of Police,
State of Tamil Nadu, Chennai.

2. The Inspector General of Police,
Armed Police, Trichy.

3. The Commandant,
TSP XIV Battalion,
Palani, Dindigul District.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records of the 3rd respondent vide proceedings in Na.Ka.No.A3/Tha.Pa.36/2019 dated 17.02.2020 confirmed by the order of the 2nd respondent vide proceedings in C.No.A2/Appeal-06/2020 dated 23.04.2020 and confirmed by the order of the 1st respondent vide proceedings in Rc. No.528922/AP.3(1)/2020 dated 12.09.2020 and quash the same.

For Petitioner : Mr.M.Viji,
for Mr.S.Deenadhayalan.

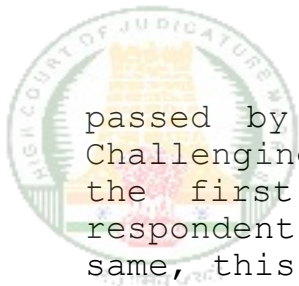
For Respondents: Mr.J.K.Jayaseelan,
Government Advocate.

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O R D E R

Heard the learned counsel on either side.

2. The writ petitioner joined the Police Department as Grade-II Police Constable on 01.02.2011. He is said to have been unauthorisedly absent on 15.10.2019. He is said to have conducted himself in an unbecoming manner on 17.10.2019 at around mid night outside the residence of the commandant. The specific allegation against the writ petitioner is that he had referred to the Commandant in abusive terms. In this regard, charge memo was issued on 08.11.2019 and an enquiry officer was appointed. Before the enquiry officer, number of witnesses were examined. The enquiry officer held that both the charges stood proved. Thereafter, by order dated 17.02.2020, the writ petitioner was dismissed from service. He filed an appeal before the appellate authority. Vide order dated 23.04.2020, the appellate authority confirmed the order



passed by the disciplinary authority and dismissed the .. Challenging the same, the petitioner filed review petition before the first respondent. Vide order dated 12.09.2020, the first respondent also dismissed the review petition. Questioning the same, this writ petition has been filed.

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3. The respondents have filed a detailed counter affidavit.

4. The impugned orders have to be quashed on a short ground. The primary allegation against the writ petitioner is that the he abused his Commandant Thiru.Ayyasamy in filthy language in a public place. The enquiry was held by the Deputy Commandant. The order dismissing the writ petitioner from service was passed by none other than Thiru.Ayyasamy, Commandant. When the charge is that the delinquent abused the disciplinary authority, the very same authority could not have passed the order. It is a clear violation of the principles of natural justice. On this sole ground, I set aside the orders impugned in the writ petition. It is surprising that this basic fact escaped the attention of the appellate and reviewing authorities.

5. This writ petition stands allowed. The matter is remanded to the file of the second respondent. Thiru.Ayyasamy continues to hold the post of Commandant, TSP XIV Battalion, Palani, Dindigul District. I am also satisfied that the authority immediately subordinate to him could not have been the enquiry officer. The enquiry proceedings are also vitiated on this ground. Therefore, the second respondent is directed to appoint a new enquiry officer. The enquiry shall be held afresh. Since the order of dismissal has been set aside, it is deemed that the petitioner is reinstated in service. It is, of course, open to the authorities to keep the petitioner under suspension. But then he has to be paid subsistence allowance. He should also be paid arrears for the period from the date of his dismissal. No costs.

Sd/-

Assistant Registrar ()

// True Copy //

03/11/2022

Sub Assistant Registrar(CS)

PMU

To:

1. The Director General of Police,
State of Tamil Nadu, Chennai.



2. The Inspector General of Police,
Armed Police, Trichy.

3. The Commandant,
TSP XIV Battalion,
Palani, Dindigul District.

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+1 CC to M/s.SPL.GP (SR-50391[F] dated 19/10/2022)

+1 CC to M/s.S.DEENADHAYALAN, Advocate (SR-50227[F] dated
19/10/2022)

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AMS (03.11.2022) 3P 6C