



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.02.2022

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P. (MD) .No.3819 of 2014
and
M.P. (MD) .Nos.1, 2 and 3 of 2014

Harikrishnan

... Petitioner

Vs.

- 1.The State of Tamil Nadu,
Represented by its Secretary,
Home Department,
Secretariat,
Chennai.
- 2.The Director General of Police,
DGP Office,
South Zone,
Madurai.
- 3.The Superintendent of Police,
Ramanathapuram District,
Ramanathapuram.
- 4.The Superintendent of Police,
Tirunelveli District,
Tirunelveli.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the fourth respondent in his proceedings in P.R.No.193/2010 dated 02.08.2011, quash the same as illegal and consequently to direct the respondents to reinstate the petitioner in service with all monetary benefits within the period that may be stipulated by this Court.

For Petitioner : Mr.Mohamed Suhail,
For Ajmal Associates.

For Respondents : Mr.N.Ramesh Arumugam,
Government Advocate (Civil Side).



ORDER

The Petitioner has filed this Writ Petition challenging the order passed in P.R.No.193/2010 dated 02.08.2011 and consequently direct the respondents to reinstate the petitioner in service with monetary benefits.

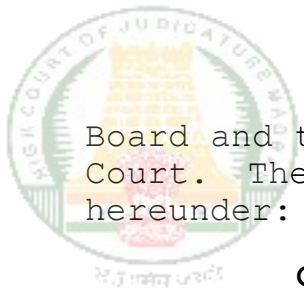
2. The brief facts of the case are that the petitioner was appointed as Grade-II Police Constable on 31.10.1997. On 24.04.2010, he was transferred to Tirunelveli District. The contention of the petitioner is though he was willing to comply with the transfer order, suddenly, because of the mental disorder, he was not in a position to join the transferred post. He was recommended for Medical Board and the Board was of the opinion that he was eligible for Medical Leave from 23.04.2010 to 12.05.2010. Again he was admitted on 13.05.2010 and was discharged on the same day and once again he was recommended for extension of medical leave for thirty days with effect from 13.05.2010. Thereafter he was not able to join the service from 05.06.2010 to 10.11.2013 because of the medical treatment on the complaint of "Split Mind".

3. In the meanwhile, the fourth respondent vide proceedings dated 10.07.2010 directed the petitioner to appear and explain the long absence for more than twenty one (21) days continuously from 02.07.2010 and should not be treated as a "Deserter". The petitioner had not submitted any written explanation. Hence a charge memo dated 01.10.2010 was issued under Rule 3(b) of Tamil Nadu Police Subordinate Service (Disciplinary and Appeal Rules), 1955 alleging that the petitioner was absent for more than 21 days and has refused to appear before the Medical Board. The petitioner did not appear for enquiry and hence the fourth respondent vide proceedings dated 02.08.2011 in PR.No.193 dismissed the petitioner from service. Aggrieved over the same, the present Writ Petition is filed.

4. The respondents had filed a counter stating that the petitioner did not appear for enquiry and based on the witness and documents, the charges were held proved. The petitioner in order to avoid the transfer post had absented from duty. Since the petitioner is serving in uniformed service, the absence beyond twenty one (21) days has been declared as Deserter and the petitioner was dismissed from service. Hence prayed to dismiss the Writ Petition.

5. Heard Mr.Mohamed Suhail, learned counsel for the petitioner and Mr.N.Ramesh Arumugam, learned Government Advocate, for the respondents.

6. When the Writ Petition was pending before this Court, a request was made by the petitioner to refer the petitioner before the Medical Board. Hence the petitioner was referred to the Medical



Board and the report dated 03.02.2022 has been submitted before this Court. The relevant portion of the Medical Board is extracted hereunder:

OPINION OF THE CHAIRMAN, REGIONAL MEDICAL BOARD

GOVT. RAJAJI HOSPITAL, MADURAI

Ref. No. 101/G5/2022

Dated: .02.2022

Sub: Regional Medical Board, Government Rajaji
Hospital,

Madurai-20,

Medical report -Submitted Reg.

The Regional Medical Board, Government Rajaji Hospital, Madurai has examined Mr.Harikrishnan 54 year/Male, S/o.Mr.Vel, referred from Medical Board Govt Medical College Hospital, Ramanathapuram for favour of psychometric evaluation, and clinical psychologist opinion on 23.12.2021. He appeared before Medical Board Madurai Medical college Hospital Madurai on 11.01.2022. He was admitted in psychiatry ward, Madurai medical college Hospital on 19.01.2022 and was observed till 24.01.2022 Laboratory investigations were done. Clinical psychologist opinion obtained.

During the observation period, his sleep, food intake were, adequate. He maintained adequate self care. His talk was relevant and no behavioral abnormalities noted. His mood was euthymic. Clinical psychologist opined that "His psychometric profile is indicative of extroverted personality and there were no major psychopathology at present." He was a known diabetic and hypertensive for which specialist opinion obtained.

Based on clinical examination Laboratory investigations, psychological and psychiatric evaluation, He has features of No Major psychopathology during the observed period.

7. The report states that there is no major psychopathology during the period he was under observation. The Learned Counsel for the petitioner submitted that the uniformed service is supposed to be considered as tough job and the petitioner was stressed during the particular period. The petitioner has submitted two certificates dated 19.11.2013 one certificate says 'Split in Mind' and other certificate says it is 'Arthritis'. The contention of the petitioner, since the petitioner had Arthritis, he was not able to move around. As a police personnel, physical fitness is important and since Arthritis has restricted his movements, which has given him stress and now, as per the Medical Board report, the petitioner had recovered from the stress.



8. This Court is of the considered opinion that admittedly the petitioner had ailment and now he has recovered. Therefore, this Court is inclined to modify the punishment of "dismissal from service" to "Stoppage of increment for three years". The respondents are directed to reinstate the petitioner without backwages. As far as the continuity of service is concerned, the petitioner is directed to pay Rs.5000/- (Rupees Five Thousand only) to the fourth respondent for Flag Day and on payment, the respondents are directed to grant continuity of service to the petitioner.

9. With the above direction, this Writ Petition is allowed. There shall be no order as to costs. Consequently, connected miscellaneous petitions stand closed.

Sd/-

Deputy Registrar (Accounts)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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 Secretary

The State of Tamil Nadu,
Home Department, Secretariat, Chennai.

2.The Director General of Police,
DGP Office, South Zone, Madurai.

3.The Superintendent of Police,
Ramanathapuram District, Ramanathapuram.

4.The Superintendent of Police,
Tirunelveli District, Tirunelveli.

+1 CC to M/s.SPL GP (SR-7484[F] dated 21/02/2022)

+1 CC to M/s.AJMAL ASSOCIATES, Advocate(SR-7675[F] dated 22/02/2022)

W.P. (MD) .No.3819 of 2014
21.02.2022

Nsr

MS/23.03.2022/4P.7C