



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.02.2022

CORAM

THE HONOURABLE MRS.JUSTICE **S.SRIMATHY**

W.P.(MD)No.21905 of 2015

and

M.P.(MD)No.1 of 2015

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R.Guruvammal

... Petitioner

vs.

1.The State of Tamilnadu represented by  
the Principal Secretary to Government,  
Home (Police) Department,  
Secretariat, Chennai 600 009.

2.The Director General of Police,  
Mylapore, Chennai 600 004.

3.The Deputy Inspector General of Police,  
Vellore Range, Vellore,

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

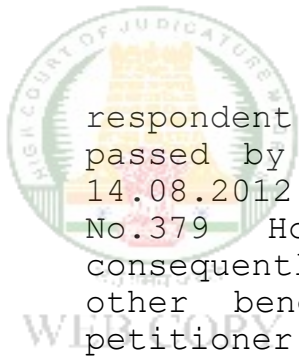
... Respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the 4th respondent in his proceedings in D.O.563/2006/C.No.H1(1)/P.R.234/2005 dated 17.4.2006 and also the order passed by the 3rd respondent in C.No.B2/AP.57/2007, dated 24.12.2007 and the order passed by the 2nd respondent in R.C.No.76251/AP.2(2)/2012, dated 14.08.2012 and order passed by the first respondent in G.O.(2D). No.379 Home (Police VI Department), dated 15.10.2014, which was served on the petitioner on 26.10.2015 and to quash the same and consequently to direct the respondents to pay all the monetary and other benefits payable to the deceased Saravanakumar to the petitioner herein.

|                 |                                                            |
|-----------------|------------------------------------------------------------|
| For Petitioner  | : Mr.C.Jegannathan<br>for M/s.Veera Associates             |
| For Respondents | : Mr.N.Ramesh Arumugam<br>Government Advocate (Civil side) |

**O R D E R**

This Writ Petition is filed for issuance of a Writ of Certiorarified Mandamus, to quash impugned order passed by the 4<sup>th</sup> respondent in his proceedings in D.O.563/2006/C.No.H1(1)/P.R.234/2005 dated 17.4.2006 and also the order passed by the 3rd



respondent in C.No.B2/AP.57/2007, dated 24.12.2007 and the order passed by the 2nd respondent in R.C.No.76251/AP.2(2)/2012, dated 14.08.2012 and order passed by the first respondent in G.O.(2D). No.379 Home (Police VI Department), dated 15.10.2014 and consequently to direct the respondents to pay all the monetary and other benefits payable to the deceased Saravanakumar to the petitioner herein.

2.The petitioner is the mother of the deceased Government Employee, namely Saravanakumar. The facts as narrated in the affidavit is that the deceased Saravanakumar was appointed as Police Constable with effect from 14.09.2002. One Murugan has given a false complaint against the deceased delinquent that he had kidnapped his wife with 30 sovereigns of gold and with cash amount of Rs.20,000/-. Therefore, a case was registered in Crime No.309 of 2005, under Section 363 IPC. The respondents placed the deceased delinquent under suspension on 27.09.2005 and framed the charges under Rule 3 (b) of Tamil Nadu Police Subordinate Service (Discipline and Appeal) Rules, 1955, with four counts. The first charge is that the delinquent left the station without obtaining prior permission, while applying medical leave from 10.09.2005 has not submitted his passport and the other three charges are relating to the kidnap case.

3.As far as the first charge is concerned, the delinquent has submitted that he had left to visit his family for seven days on leave, thereafter his health was deteriorated, as per the advice of the Doctor, he applied for medical leave for one month. The petitioner stated that he had conveyed through telegram for further extension. The explanation was not accepted by the respondents and finally, the charges were proved and major punishment of dismissal from service was imposed on 24.04.2006. The delinquent preferred an appeal and the same was rejected as time barred. The Revision Petition of the delinquent was also rejected on 13.06.2008. In the meanwhile, in the kidnap case in C.C.No.78 of 2006, the delinquent was acquitted, vide order, dated 15.09.2011, in terms of Section 248 (1).

4.The contention of the petitioner / deceased mother is that the allegation of kidnap was denied by the said Radha stating that she had left her husband on her own will due to the torture of her husband, namely Murugan. Therefore, the contention of the deceased mother is that since the delinquent was acquitted, the respondents ought to have taken a lenient view and set aside the punishment of dismissal from service. The deceased filed the Writ Petition in W.P.(MD)No.6120 of 2012 and this Court on 27.04.2012, directed the respondents to consider the Mercy Petition on merits. In the meanwhile, the petitioner's son died on 23.09.2012 on a road accident. The second respondent passed an order on the Mercy Petition and has declined to interfere on the ground that only the



Government can decide on the Mercy Petitions. Therefore, the deceased mother approached the Government for redressal and the first respondent has rejected her application, vide G.O. (2D) No. 379, Home (Police IV) Department, dated 15.10.2014. Aggrieved over the same, the present Writ Petition is filed.

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5.The fourth respondent has filed a counter affidavit and reiterated the stand taken in the impugned orders passed by the respondents.

6.Heard Mr.C.Jegannathan, learned Counsel appearing for the petitioner and Mr.N.Ramesh Arumugam, learned Government Advocate appearing for the respondents.

7.The petition is filed by the mother of the deceased employee. The petitioner was charged for taking leave for thirty days without prior permission and without passport, which amounts to violation of the Police standing order. As far as the other three charges are concerned, it is related to kidnapping.

8.The contention of the deceased employee is that he has not kidnapped the said Radha and she came on her own because of the torture of her husband / complainant. The said Radha has deposed before the Criminal Court and has categorically stated that she was not kidnapped. Therefore, the criminal proceedings have ended up in acquittal and the respondents have not preferred any appeal. Therefore, the order has become final. If that is so, the only charge is unauthorized absence without prior permission for 30 days. The deceased delinquent has submitted the medical certificate and has obtained leave for seven days. In fact, for the balance 23 days, the delinquent has not obtained prior permission. Then, the punishment is absolutely disproportionate and it is hitting the conscious of the Court. As far as the criminal case is concerned, strict evidence is necessary in the criminal jurisdiction. However, for domestic enquiry, preponderance of probability is the scale to prove the allegations. But, it cannot brush aside, the acquittal in the criminal proceedings. The death of the delinquent ought to be taken into account. Therefore in order to meet the interest of justice, the punishment ought to be modified.

9.Therefore, this Court is inclined to modify the punishment of dismissal from service. It is seen from the records that the petitioner was appointed on 14.09.2002 and served until 17.04.2006. Thereafter, the petitioner was dismissed from service and the petitioner died on 23.09.2012. Even, if the punishment is modified as compulsory retirement, the petitioner may not be entitled to any pension since the deceased has not completed 10 years of service. Moreover, the deceased has not worked for the period from 2006 to 2012. Therefore, this Court is directing the respondents to pay all terminal benefits, which is applicable to the deceased delinquent by



compensation of Rs.50,000/-. The said payments shall be paid within a period of six weeks from the date of receipt of a copy of this order.

12. With the above direction, the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar (A.D II)

// 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 Principal Secretary to Government,  
State of Tamilnadu,  
Home (Police) Department,  
Secretariat, Chennai 600 009.
2. The Director General of Police,  
Mylapore, Chennai 600 004.
3. The Deputy Inspector General of Police,  
Vellore Range, Vellore,
4. The Superintendent of Police,  
Vellore, Vellore District.

+1 CC to M/s.SPL.GP ( SR-3717[F] dated 02/02/2022 )

**W.P. (MD) No.21905 of 2015**

**01.02.2022**

RS(26.02.2022) 4P 6C