



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.04.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P. (MD) .No.4084 of 2016

Ganesan

... Petitioner

Vs.

1.The Principal Secretary to State of Tamil Nadu,
Home Department,
Fort St.George,
Chennai.

2.The Director General of Police,
O/o. Director General of Police,
Dr.Radhakrishnan Salai,
Mylapore,
Chennai.

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

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

... 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 entire records relating to the order of compulsory retirement, of petitioner, passed by the fourth respondent vide his proceedings bearing PR-43/F1/2013 dated 05.05.2014 and was confirmed by the third respondent in the appeal preferred by the petitioner, vide his proceedings bearing AP-27/A2/2014 dated 10.07.2014 and also confirmed by the second respondent vide his proceedings bearing Rc-No.179624/APII(3)/2015 dated 13.11.2015, and quash the same and consequently direct the respondents to reinstate the petitioner with all monetary benefits.

For Petitioner : Mr.S.Siva Ilayaraja

For Respondents : Mrs.D.Farjana Ghoushia,
Special Government Pleader.



ORDER

This Writ Petition has been filed to quash the impugned order dated 05.05.2014, 10.07.2014 and 13.11.2015 with a consequential relief to reinstate the petitioner into service with all monetary benefits.

2. The brief facts of the case that the petitioner joined uniform service on 31.10.1995 as Grade - II Police and completed the training. A charge memo dated 05.05.2014 in P.R.No.43 of 2013 was issued for the allegations that the petitioner absented himself from 25.06.2013 to 03.07.2013 for more than 10 days. The respondents have placed the petitioner under suspension from 23.07.2013 and disciplinary proceedings were initiated against the petitioner. The petitioner has absented himself in the previous occasion also and the respondents have initiated disciplinary proceedings each and every time and this is the 9th time, the petitioner has absented himself for 10 days. Therefore, an enquiry was conducted and it was held proved. The respondents have imposed the punishment of compulsory retirement. Aggrieved over, the petitioner preferred Appeal and Revision and all the applications were dismissed. Aggrieved over, the present Writ Petition has been filed.

3. The contention of the petitioner is that he is the sole bread winner to the entire family and he is having one son and one daughter studying in 10th and 12th Standard respectively and the petitioner has pleaded to consider the case compassionately. The petitioner has submitted an undertaking affidavit stating that in future he will not absent himself and he will strictly adhere to the rules. But the learned counsel for the respondents submitted that the petitioner is habitually absenting from service. Each and every time, the punishment was inflicted on the petitioner. First time it was imposed as black mark subsequently reduction of scale of pay and postponement of increment and so on and finally imposed the punishment of compulsory retirement. Therefore, the respondents have vehemently contended the petitioner should not be considered compassionately. The punishment of compulsory retirement is legal valid based on the charges of the petitioner.

4. Heard Mr.S.Siva Ilayaraja, learned counsel for the petitioner and Mrs.D.Farjana Ghoushia, learned Special Government Pleader for the respondents.

5. The petitioner is now 54 years of age and he is having six more years in service. Having one son and one daughter doing 10th and 12th Standard respectively at the time of filing of the Writ Petition, the petitioner submitted that he is the sole bread winner. The petitioner also has submitted an undertaking affidavit and the contents of the affidavit is taken into account. The 9th paragraph of the undertaking affidavit states as follows:



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"9. I humbly submit that I hereby solemnly undertake that hereinafter I will not face any kind of charges much less than the similar charge in the captioned writ petition and I will serve the police force with utmost sincere, dedicational, dutiful and devotional ever before, I may be given a chance to prove the same, therefore I humbly prayed to set aside the order of compulsory retirement modified with some other lesser punishment proportionate and commensurate the charge".

6. Therefore, recording the said submission, this Court is of the considered opinion that the petitioner deserves one more opportunity. Therefore, this Court set aside the impugned order and the respondents are directed to reinstate the petitioner with continuity of service. However, the petitioner is not entitled to any back wages from the date of dismissal from service. This order shall be implemented within a period of six (6) weeks from the date of receipt of a copy of this order.

7. With the above observations, this Writ Petition is allowed. There shall be no order as to costs.

Sd/-

Assistant Registrar (Admin I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

Nsr

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 State of Tamil Nadu,
Home Department,
Fort St.George,
Chennai.

2.The Director General of Police,
O/o. Director General of Police,
Dr.Radhakrishnan Salai,
Mylapore,Chennai.

<https://hcservices.ecourts.gov.in/hcservices/>



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

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

+1 CC to M/s.S. SIVA ILAYARAJA, Advocate (SR-19525[F] dated
19/04/2022)

+1 CC to M/s.SPL.GP. (SR-19728[F] dated 20/04/2022)

W.P. (MD) .No.4084 of 2016
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MGJ(24.05.2022) 4P 7C