



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.03.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P. (MD).No.18877 of 2017

and

W.M.P (MD) Nos.15227 and 15228 of 2017

WEB COPY

S.Anthonysamy

... Petitioner

Vs.

1.The Director General of Police,
Tamilnadu,
Chennai.

2.The Commandant,
Tamilnadu Special Police-1 Battalion,
Tiruchirapalli.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari by calling for the entire accords pertaining to the order of dismissal passed by the 2nd respondent as a punishment vide his order in P.R.No. 29/2014 dated 12.03.2015 which has been subsequently confirmed by the 1st respondent in the petitioner's appeal vide his proceedings Rc.No. 207904/AP.3(1)/2015 dated 25.12.2016 and quash the same, and consequently direct the respondents to reinstate the petitioner into service in the cadre of police Constable.

For Petitioner : Mr.S.Kumar

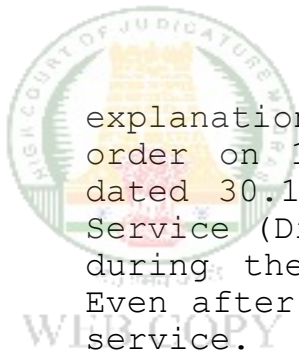
For Respondents : Mr.P.Thambidurai

Government Advocate (Civil Side).

O R D E R

This writ petition is filed challenging the dismissal order passed by the second respondent in P.R.No.29 of 2014, dated 12.03.2015 which was subsequently confirmed by the first respondent in appeal, vide order, dated 25.12.2016 and consequently, direct the respondents to reinstate the petitioner.

2.The brief facts of the case are that the petitioner had received an appointment order and pursuant to the direction, the petitioner has reported to the second respondent for the commencement of training on 28.03.2013. The petitioner informed that his mother is unwell, who had stroke and she is completely paralyzed. Therefore, the petitioner was granted leave from 29.03.2013 to 31.03.2013. On 23.04.2013, the petitioner went back to the School to attend the remaining training period. But the second respondent did not allow the petitioner to submit his

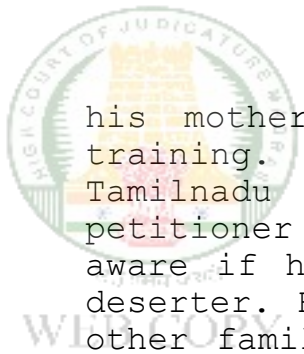


explanation. Thereafter, the petitioner was issued with a deserter order on 10.01.2014. The respondents have issued a Charge Memo, dated 30.10.2014 under Rule 3(b) of Tamil Nadu Police Subordinate Service (Discipline and Appeal) Rules. Since the petitioner has left during the training period, the same was considered as serious. Even after 60 days, the petitioner has not come forward to join the service. Thereafter, an enquiry was conducted and the petitioner participated in the enquiry. Finally, vide order, dated 12.03.2015 the petitioner was dismissed from service. The petitioner preferred an appeal and the Appellate Authority has confirmed the punishment, vide order, dated 25.12.2016. Aggrieved over the same, the petitioner has preferred this writ petition.

3.The respondents have filed a counter affidavit stating that after giving permission for leave for three days on 01.04.2013, the petitioner has not reported to the second respondent as he was continuously absent for training for more than 21 days, the petitioner was treated as a deserter with effect from 01.04.2013 as per the Police Standing Order. Again the notice, dated 22.04.2013 was issued with instructions to the petitioner that he should appear before the Principal, Police Recruit School within 60 days and it was instructed that if he fails to report, the disciplinary proceedings will be initiated against the petitioner. The order was served to the petitioner on 23.04.2013 and he has affixed the signature in the said order. Thereafter, the disciplinary action was initiated against the petitioner in P.R.No.29 of 2014 and finally the petitioner was awarded with the punishment of dismissal from service by the second respondent on 12.03.2015. His time barred appeal was also rejected, vide order, dated 31.12.2015 and subsequently, the petitioner's review petition was also rejected on 25.12.2016. The contention of the respondent is that the petitioner was absent despite the opportunities were granted to him to furnish justification for his unauthorized absence. But the petitioner has not submitted any evidence that his mother was ill. Therefore, the respondents prayed to dismiss the writ petition.

4.Heard Mr.S.Kumar, learned Counsel appearing for the petitioner and Mr.P.Thambidurai, learned Government Advocate appearing for the respondents.

5.It is seen that the petitioner was recruited on 18.02.2013 and he was undergoing training. The Casual leave from 29.03.2013 to 31.03.2013 was granted to the petitioner. However, the petitioner has not returned to the training from 01.04.2013. In spite of desertion order, the petitioner has not reported to the training. Thereafter, even after 60 days, the petitioner has remained absent. Therefore, the respondents have initiated the disciplinary proceedings. The petitioner has submitted the certificate issued by the Siddha Doctor stating the petitioner's mother is having bilateral Osteoarthritis of knee joints. The contention of the



his mother during that period, he was not able to attend the training. The petitioner submitted a petition to the Commandant Tamilnadu Special Police-1 Battalion, Trichy, stating that the petitioner is not aware of the rules of the police and the he is not aware if he is absent for more than 21 days he will be termed as deserter. He has also stated that he belongs to poor family and no other family member is earning and he has to maintain his family. The petitioner has assured that he will not commit any such lapse in future and has sought pardon. The petitioner is 27 years at the time of filing this writ petition and he is now 31 years without any job. This Court is of the considered opinion that the petitioner deserves a chance to mend his ways when he has assured he will not commit such lapse in future.

6. Therefore, the impugned order of dismissal from service is set aside. Taking into consideration of the petitioner's assurance that he will not commit this lapse in future, the respondents are directed to reinstate the petitioner into service. However, the petitioner is not entitled to continuity of service from the date of appointment and also not entitled to any backwages. The petitioner shall be appointed as a new entrant.

7. With the above direction, the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (Writs)

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/ /2022

Sub Assistant Registrar (CS)

To

1. The Director General of Police,
Tamilnadu, Chennai.

2. The Commandant,
Tamilnadu Special Police-1 Battalion,
Tiruchirapalli.

+1 CC to M/s.S.KUMAR, Advocate (SR-15041[F] dated 29/03/2022)
+1 CC to M/s.SPL GP (SR-15083[F] dated 29/03/2022)

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