



W.P.(MD)No.28987 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:23.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.28987 of 2022
and
WMP(MD)No. 22959 of 2022

M.Krishna

... Petitioner

Vs.

1.The Additional Director General of Police / ,
Director of Civil Defence and Addl. Cmt. General,
Home Guard,
Chennai.

2.The Superintendent of Police,
Sivagangai District, Sivagangai.

... Respondents

Prayer:Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 1st respondent in Rc.No.A1/0021/DCD & HG/2021, dated 05.01.2021 confirming the impugned order of removal passed by the 2nd respondent in Ma.Aa.No.1396/2020 Na.Ka.No.E2/17845/51/2020, dated 11.11.2020 and quash the same as illegal and consequently, direct the respondents to



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reinstate the petitioner with all monetary benefits within a stipulated period.

For Petitioner : Mr.M.Jerin Mathew.
For Respondents : Mr.G.V.Vairam Santhosh
Additional Government Pleader

ORDER

This writ petition has been filed challenging the impugned order passed by the 1st respondent in Rc.No.A1/0021/DCD & HG/2021, dated 05.01.2021, confirming the impugned order of removal passed by the 2nd respondent in Ma.Aa.No.1396/2020 Na.Ka.No.E2/17845/51/2020, dated 11.11.2020 and to consequently, direct the respondents to reinstate the petitioner with all monetary benefits within a stipulated period.

2. The case of the petitioner is that he was appointed as Home Guard by the first respondent. While the petitioner was in service, he made a representation to the Chief Minister's Cell through online. For which, a charge sheet was issued to him and subsequently, he was removed from service vide order, dated 11.11.2020. Challenging the same, the petitioner filed an appeal and the same was rejected confirming



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the order passed by the original authority. The appeal was rejected on the ground that the appeal was not filed within time. Aggrieved by the same, the petitioner has filed this writ petition with the aforesaid prayer.

3. The learned counsel appearing for the petitioner would submit that the petitioner suffered major punishment at the hands of the second respondent and hence, he filed an appeal before the first respondent. However, the first respondent has dismissed the appeal on the ground of limitation, which is not sustainable and hence, prayed for allowing of this writ petition.

4. The learned Additional Government Pleader appearing for the respondents would submit that as per the Tamil Nadu Home Guard Act, 1963, limitation is thirty days to file an appeal and therefore, the appeal filed by the petitioner was dismissed, which is perfectly in order and therefore, prayed for dismissal of this writ petition.



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5. Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents and perused the materials produced before this Court.

6. Considering the facts and circumstances of the case that the petitioner suffered a major punishment at the hands of the second respondent and against which, the petitioner preferred an appeal. However, the first respondent rejected the appeal filed by the petitioner on the ground of delay, which is not sustainable. Hence, in order to render substantial justice, exercising the power under Article 226 of the Constitution of India, this Court is inclined to set aside the impugned order.

7. Accordingly, this writ petition is allowed and the impugned order passed by the first respondent, dated 05.01.2021, is set aside and the matter is remanded back to the first respondent for fresh consideration. The first respondent is directed to hear the appeal on merits and pass appropriate orders on merits and in accordance with law,



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as expeditiously as possible. No Costs. Consequently, connected miscellaneous petition is closed.

23.12.2022

pm

To

- 1.The Additional Director General of Police / ,
Director of Civil Defence and Addl. Cmt. General,
Home Guard,
Chennai.
- 2.The Superintendent of Police,
Sivagangai District, Sivagangai



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M.DHANDAPANI, J.

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