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W.P.No.1080 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.08.2023

CORAM :
THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

W.P.No.1080 of 2020

G. Balakrishna

... Petitioner

Vs.

- 1.The Special Director General,
South Zone CRPF,
Hyderabad, Telangana.
- 2.The Inspector General of Police,
Karnataka-Kerala Sector,
CRPF Campus, Yelahanka,
Bengaluru - 560 064
Karnataka.
- 3.The Deputy Inspector General of Police,
Bangalore Range, CRPF,
Bengaluru - 560 064
Karnataka.
4. The Commandant,
77 BN CRPF,
Poonamallee,
Chennai - 600 056.

... Respondents

Writ Petition filed under Article 226 of Constitution of India, praying



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for issuance of Writ of Certiorarified Mandamus to call for the records in the file of the impugned proceedings passed against the petitioner by the respondents 1 to 4 i.e. Proceedings No. R-XIII-26/2018-SZ-CRV-1 dated 31.01.2019 passed by the 1st respondent, proceedings No. R-XIII-3/2018-Admn-I dated 10.07.2018 passed by the 2nd respondent, Proceedings No.R-XIII-5/2018-(77)-EC-3(R/BLR) dated 09.02.2018 passed by 3rd respondent and Proceedings No.P.VIII-03/2017-77-EC-II dated 09.11.2017 passed by the 4th respondent and Quash the same and consequently direct the respondents to reinstate the petitioner in service with continuity of service.

For Petitioner : Mr.K.Sanjay

For Respondents : Mr.S.Diwakar

ORDER

This Writ Petition has been filed by the petitioner to call for the records in the file of the impugned proceedings passed against the petitioner by the respondents 1 to 4 i.e. Proceedings No. R-XIII-26/2018-SZ-CRV-1 dated 31.01.2019 passed by the 1st respondent, proceedings No. R-XIII-3/2018-



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Admn-I dated 10.07.2018 passed by the 2nd respondent, Proceedings No.R-XIII-5/2018-(77)-EC-3(R/BLR) dated 09.02.2018 passed by 3rd respondent and Proceedings No.P.VIII-03/2017-77-EC-II dated 09.11.2017 passed by the 4th respondent and Quash the same and consequently direct the respondents to reinstate the petitioner in service with continuity of service.

2. The Case of the petitioner is that he was appointed as Constable on 15.02.2003. From the date of his appointment to till the date of dismissal from service, he served as a Constable, without any promotion. Finally, he worked as a Constable, before the 4th respondent control at Coimbatore Prison. Due to the sudden death of his only sister at native place, the petitioner was permitted to avail leave on 27.11.2016 and he should have reported to duty on 28.11.2016, however, due to sudden depression, the petitioner was not able to join the duty, within the stipulated time. He underwent a treatment in the hospital for nearly 2 ½ months. Thus, the petitioner did not report to duty, till 20.02.2017. After 85 days of leave, the petitioner reported on his own, before the 4th respondent Office and he was permitted to join duty.



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2.2. On 06.03.2017, the petitioner was placed under suspension by the 4th respondent and three charges have been framed against him. The first charges is unauthorized absence from duty for 85 days and the second charge is also similar to first charge and the third charge has already been over and they have imposed a punishment for the same. Subsequently, the Enquiry Office was appointed and after detailed enquiry, he submitted a report to the 4th respondent and all the charges leveled against the petitioner was proved. During the enquiry, the medical certificates produced by the petitioner has not been considered by the Enquiry Officer. Without considering the said medical certificates, the 4th respondent issued a order of dismissal from service on 09.11.2017. Challenging the same, the petitioner has filed an appeal before the 3rd respondent and the same was dismissed on 09.12.2018. Thereafter, challenging the order dated 09.12.2018, the petitioner has filed revision petition before the 2nd respondent and that too was dismissed on 10.07.2018. The petitioner again filed a revision petition before the 1st respondent and the authorities confirmed the order dated 10.07.2018 passed by the 2nd respondent. Aggrieved over by the aforesaid orders, the petitioner



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has come forward with the present writ petition.

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3. Though very many grounds have been raised in this writ petition, learned counsel for petitioner submitted that the writ petitioner may be allowed to make a fresh representation before the second respondent, within a time frame to be framed by this Court.

4. Learned counsel appearing for the respondents has no objection for the said order being passed by this court.

5. Heard the learned counsel on either side and perused the materials available on record

6. Considering the facts and circumstances of the case and the submission made by the learned counsel of either side, this Court without going into the merits of this case issues the following directions:

(i) The petitioner is directed to give a representation before the second respondent along with the original affidavit, within a period of two weeks



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from the date of receipt of a copy of this order.

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(ii) On receipt of the said representation, the second respondent may consider the same by taking into consideration the affidavit filed by the petitioner as well as his family situation and modify the punishment on merits and in accordance with law and passed appropriate orders, within a period of eight weeks there after.

7. This writ petition is disposed of with the aforesaid observation and directions. No costs.

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Index : Yes/No

Speaking Order : Yes/No

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