



WEB COPY



W.P.No.3267 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 06.06.2023

PRONOUNCED ON : 12.06.2023

CORAM :

THE HONOURABLE MR.JUSTICE BATTU DEVANAND

W.P.No.3267 of 2020
and WMP.No.13985 of 2022

A.Joshwa

... Petitioner

-Vs-

1.Director General of Police,
Law and Order,
Chennai – 4.

2.The Commissioner of Police,
Greater Chennai City Police,
Vepery, Chennai - 7.

3.The Joint Commissioner of Police,
Traffic (South)
Chennai – 7.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned order of dismissal from service passed by the first respondent herein in his proceedings RC.No.095902/AP.3(2)/2017 dated 18.04.2018 and the order passed by the second respondent herein in his proceedings PR.No.03/PR.S(1)/2015 u/r.3(b), RC.No.325/ 119434/ PR.V(1)/



W.P.No.3267 of 2020

CPO/2016 dated 31.05.2017 and the order passed by the third respondent herein in his proceedings PR.No.03/PR.(S)(1)/2015, u/r.3(b), RC.No.41/1277/Tr.PR/2016 dated 26.10.2016 and quash the same and consequently direct the respondents herein to allow the petitioner to retire from service w.e.f. 31.05.2017 and disburse all terminal, pensionary, service and monetary benefits.

For Petitioner : Mr.G.Bala & Daisy.

For Respondents : Mr.G.Nanmaran, Spl.G.P.

ORDER

Heard the learned counsel for the petitioner and the learned Special Government Pleader and perused the materials available on record.

2. The case of the petitioner is that basing on the complaint submitted on 31.07.2013 by Tmt.Kalaivni, the General Secretary of Indira Female Model Educationalist Association, Anna Nagar, Chennai, alleging that the petitioner herein along with Raja HC 16038, Kumaran Gr.I PC 20406 and Kumaresan PC 27925 had entered into the house of Jayalakshmi and misbehaved with the inmates and gave sexual torture, the petitioner was issued with a charge memo, pursuant to which, an enquiry officer was appointed and the enquiry officer has conducted oral enquiry and had held the charges against the petitioner herein as proved in his minute dated 30.12.2015.



W.P.No.3267 of 2020

WEB COPY

3. After receipt of the report from the enquiry officer, the petitioner had also submitted a representation to the 3rd respondent. Subsequently, the 3rd respondent had passed the order of punishment of “dismissal from service”. dated 26.10.2016 with immediate effect. Against which, the petitioner filed an appeal before the second respondent, the said appeal was dismissed on 31.05.2017. Aggrieved by the same, the petitioner preferred a review petition before the first respondent and the same was also dismissed by the first respondent on 18.04.2018. As against the said orders, the present writ petition is filed by the petitioner.

4. A counter affidavit has been filed on behalf of the respondents.

5. The contention of the learned counsel for the petitioner is that the petitioner has not signed in any of the prosecution documents, stating that the statement of the witnesses was not recorded in his presence by the then Assistant Commissioner of Police, who conducted the preliminary enquiry. It is further contended that the representation dated 29.09.2016 has not been considered by the respondents in proper manner, while passing the impugned



W.P.No.3267 of 2020

orders. During the course of hearing, the learned counsel for the petitioner placed reliance on the order dated **06.09.2021** passed by this Court in **WP.No.9039 of 2018** in the case of **S.Kumaran V. The Joint Commissioner of Police, Traffic South, Greater Chennai City Police, Vepery, Chennai and another.**

6. On perusal of the said order, it appears that the petitioner in the aforesaid writ petition is one of the colleagues of the writ petitioner herein, against whom also the same allegations are made. Considering the fact that the orders passed by the original authority and also by the appellate authority are non speaking orders, this Court was pleased to quash the said orders and remitted the matter back to the first respondent herein.

7. On perusal of the orders impugned in this writ petition, it appears that the explanation submitted by the petitioner on 29.09.2016 is not properly considered. On careful perusal of the impugned orders, it also appears that no reasons are assigned to pass such orders. As such, it is to be held that the impugned orders are non-speaking orders.



W.P.No.3267 of 2020

8. In view of the above facts and circumstances of the case and in the light of the order of this Court cited supra, in our considered view it is appropriate to pass orders with the same relief granted by this Court in WP.No.9039 of 2018.

9. In view of the aforesaid reasons, the writ petition is disposed of with the following directions :-

(1) the orders impugned in this writ petition (i) Order dated 26.10.2016 passed by the third respondent; (ii) Order dated 31.05.2017 passed by the second respondent and (iii) Order dated 18.04.2018 passed by the first respondent are hereby quashed

(2) the case is remitted back to the 3rd respondent to consider and pass appropriate orders on the explanation dated 29.09.2016 submitted by the petitioner in terms of Rule 3(b)(ii) of the Tamil Nadu Police Subordinates Services (Disciplinary and Appeal) Rules, 1955 within a period of six weeks from the date of receipt of a copy of this order.

(3) The petitioner is also given liberty to file additional representation, if any within a period of two weeks from the date of receipt of this order.



W.P.No.3267 of 2020

WEB COPY 10. No costs.

11. Consequently, connected miscellaneous petitions, if any, are closed.

12.06.2023

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Index: Yes/No

Speaking order/Non Speaking order

Neutral Citation: Yes/No

To

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Vepery, Chennai - 7.

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BATTU DEVANAND, J.



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W.P.No.3267 of 2020

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Pre-Delivery Order in

W.P.No.3267 of 2020

12.06.2023.