



W.P.No.19703 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.08.2023

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No.19703 of 2013

A.Palaniyandi

...Petitioner

Vs.

1.Additional Director of Prisons,
No.1, Gandhi Irwin Road,
CMDA Tower – 2,
Egmore, Chennai – 8.

2.Superintendent of Prisons,
Central Prison,
Coimbatore – 18.

...Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India seeking to issue a Certiorari, calling for the entire records pertaining to the order of the 1st respondent dated 29.10.2009 in Ref.No.28706/EW/1/2009 consequent to the order of the 2nd respondent's order dated 30.07.2009 in Ref.No.13730/G4/09, quash the same.

For Petitioner : No appearance

For Respondents : Mr.R.Velusamy
Additional Government Pleader



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ORDER

This writ petition has been filed challenging the order passed by the 1st respondent dated 29.10.2009 in Ref.No.28706/EW/1/2009 thereby confirmed the order passed by the 2nd respondent dated 30.07.2009 in Ref.No.13730/G4/09, thereby dismissing the petitioner from service.

2. The petitioner, while working as Jail Warder Gr.II at Coimbatore Central Prison, was suspended from his service on 22.07.2009 alleging that two chappals were seized from Convict No.2230 Palanisamy @ Chinnasamy @ Lawyer, in which 400 grams of Kanja (Narcotic product) was found to have been stored . On enquiry, his brother Sasi @ Sasikumar, who was also convict in Convict No.2231 came to the light that the said contraband smuggled into the Prison by the petitioner herein. Further allegation is that another 200 grams of Kanja was seized from another chappal, which was found in a condemned quarters, in which, the petitioner was temporarily staying.



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3. In pursuant to the said recovery, FIR was registered as against the petitioner in Crime No.1333 of 2009 on the file of the B4 Police Station, Coimbatore, by Judicial Magistrate No.3, Coimbatore. In pursuant to the registration of FIR, the petitioner was arrested and remanded to judicial custody on 23.07.2009. After domestic enquiry, all the charges framed against the petitioner were proved and hence, he was dismissed from service. Aggrieved by the same, the petitioner also preferred an appeal and the same was also dismissed. Hence, the writ petition, praying to set aside the order of removal from service on the ground that he was acquitted from all the charges by the criminal Court in STC.No.421 of 2009 on the file of the Judicial Magistrate No.3, Coimbatore, and further he was not given any opportunity in the enquiry therefore, it is a violation of principles of natural justice.

4. On perusal of the counter affidavit filed by the 2nd respondent revealed that while the petitioner was in service he was imposed the following charges to his credit.



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<i>Sl.Nos.</i>	<i>Date of Delinquency</i>	<i>Nature of Delinquency</i>	<i>Punishment imposed with order number and date</i>
1.	19.02.1999	During the search conducted by the Deputy Inspector General of Prisons, Coimbatore Range on 19.2.1999 and in the 10 th Block under his charge contraband articles were recovered	Pay reduced by two stages for a period of two years without cumulative effect in Superintendent Proc No.6757/G1/99, dated 1.2.2001
2.	04.12.2006	While reporting for duty on 4.12.2006 he was searched by the Jailor at 12.55 hours, 6 bundles of beedies concealed in his undergarment and Hans concealed in his Kerchief recovered from him	Pay reduced by one stage for a period of one year without cumulative effect in Proc No.24694/G4/06, dated 21.03.2007

5. It is seen that on receipt of secret information on 22.07.2009, a search was conducted by the jailer and found 400 grams of Kanja in the chappals of one Convict No.2230 Palanisamy @ Chinnasamy @ Lawyer. Based on the confession of his brother Convict No.2231 Sasi @ Sasikumar, the petitioner was roped into their crime and another 200 grams of Kanja was also seized from the place in which, the petitioner was staying. After registration of FIR in



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Crime No.1333 of 2009 for the offence under Sections 20(b)(ii)(A) of NDPS Act, completion of investigation and filed final report and arrest of the petitioner, he was suspended from service with effect from 22.07.2009. The petitioner had committed very serious offence that too in the Prison while he was working as Jail Warder Gr.II.

6. That apart, already, for the same allegation of possession of Tobacco products, he was charged and he was imposed with minor punishments. He had contact with the Kanja peddlers. Therefore, the Disciplinary Authorities did not conduct any enquiry since it leads to security problems which is detrimental to security of the State by introducing contraband articles into the Prison by having nexus with the Prisoners. Therefore, the 2nd respondent rightly invoke the powers vested with Rule 17(c)(ii) of Tamil Nadu Civil Service (Discipline and Appeal) Rules and Clause (2)(C) of Article 311 of the Constitution of India, dismissed the petitioner from service with effect from 30.07.2009 and the same was also confirmed by the 1st respondent in the appeal. Therefore, this Court finds no infirmity or illegality in the orders passed by the respondents and this writ petition is devoid of merits.



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7. Accordingly, the writ petition stands dismissed. There shall be no order as to costs.

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Speaking/Non-Speaking
Index: Yes/No
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To

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