



WEB COPY



WP.No.19117/2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 15.09.2023

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

WP.No.19117/2016

S.Kavitha

... Petitioner

Versus

1.State of Tamil Nadu rep.by
Secretary to Government
Home Department, Fort St George
Chennai 600 009.

2.Director General of Police,
Mylapore, Chennai 600 004.

3.Additional Director General of Police
Armed Police, Chennai 600 010.

4.The Commandant
Tamil Nadu Special Police 5th Battalion
Avadi, Chennai 600 109.

... Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus calling for the concerned records and order No.Na.Ka.No.அ.உ.த.பி 10/2013 dated 03.07.2014 passed by the 4th respondent and quash the same and



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consequently direct the 4th respondent to reinstate the petitioner into service and also direct the respondents 2 and 3 to grant accelerated promotion to the post of Sub Inspector of Police as recommended by the 3rd respondent to the 2nd respondent on 14.12.2010 in recognition of the achievements of the petitioner in the field of Kabaadi sports.

For Petitioner : Mr.M.Gnanasekaran

For Respondents : Mr.S.Ravikumar, Spl.GP

ORDER

- (1) The writ petition has been filed in the nature of a certiorarified mandamus seeking records relating to an order dated 03.07.2014 passed by the 4th respondent, Commandant, Tamil Nadu Special Police 5th Battalion, Avadi in Chennai in order No.Na.Ka.No.அ.உ.த.பி 10/2013 and to quash the same and also to direct the respondents to reinstate the petitioner into service and grant promotion to her.
- (2) The petitioner had joined the police force as Police Constable on 14.02.2005. She was then promoted as Woman Temporary Havildar.



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The petitioner as a sports person, was proficient in Kabaadi. She was also the captain of the Armed Police Kabaadi Team. She was also the captain of the Tamil Nadu Police Team. She had participated in several tournaments and in National level meets. She was also the Vice Captain of the Indian Women Kabaadi Team and participated in the 2nd Asian Women Kabadi Tournament held in Tehran in Iran and had also won first place. She has also led the Indian Team in various other tournaments. She has also got gold medals in that sport. She was also recognised by the Hon'ble President of India and also by the Prime Minister of India and had also been awarded cash award at a felicitation held on 14.12.2010 at New Delhi.

- (3) Unfortunately, she did not focus her attention on her career in the Police Department. She was on medical leave from 20.09.2011 till 19.10.2011 for a period of thirty days. She then sought extension of medical leave for a further period of twenty eight days from 20.10.2011 to 18.11.2011. She did not however report for duty on 19.11.2011. Thereafter, on 13.12.2011, the 4th respondent had declared her as a 'deserter' with effect from 19.11.2011 taking



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recourse to the Police Control Order 95[1]. Thereafter, the 4th respondent issued a charge memo on 08.03.2012. The Assistant Commissioner-I, 5th Battalion, was appointed as the Enquiry Officer. He held that the charges were proved. The petitioner was imposed with a punishment of stoppage of increment for a period of three years without cumulative effect. Thereafter, the petitioner was issued with another charge memo on 07.08.2012 stating that even after the earlier order, she had not reported for duty. Yet another enquiry proceedings commenced and was conducted and again, a punishment of cut of increment for a period of three years without cumulative effect was imposed. She was directed to report for duty. Again, since she did not report for duty, a third charge memo was again issued and again, it was held that the charges were proved. Once again, a further punishment of stoppage of increment for a period of one year was inflicted on her. She stated that she could not join duty owing to circumstances which were beyond her control. Finally, since she did not again join the duty, the 4th respondent had issued an order on 03.07.2014, striking off her name from the rolls with effect from



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17.11.2011. This is the order which is now questioned in the present writ petition.

- (4) A counter affidavit had been filed by the 4th respondent once again reiterating the facts that the petitioner had been continuously absent and though several opportunities were granted to her in spite of the fact that charges have been proved, still she did not join for duty. The statement of the petitioner about the enquiry conducted thrice, had been affirmed by the 4th respondent. It had been stated that the petitioner was serving in a disciplined force and should obey the order of the superior officers. It was stated that she could have appeared before the Commandant and explained her grievances. It was specifically stated that after following due procedure, the Impugned Order had been passed of removal from service. It was again pointed out that the petitioner had not given any specific reason as to why she had been continuously absent and therefore, it was urged that this writ petition should be dismissed.
- (5) This Court, on examining the records of the petitioner, particularly her statements that she had been a sports person and had also



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performed extremely proficient in the International tournaments on behalf of this country and had also been given awards by the Hon'ble President and by the Prime Minister of this country, had sought reasons why she was continuously absent. It was then informed that the petitioner had actually given a letter resigning from the police force on 09.04.2012. Again, she had stated that owing to family circumstances, she could not continue to work in the police force.

- (6) This Court had called upon the learned counsel for the petitioner to examine this letter given by the petitioner herein. The learned counsel sought time to get instructions.
- (7) It appears that the letter had been issued with full knowledge of its implications. Once the petitioner had taken a considered decision to resign from the police force, then there is severance of employer-employee relationship between the petitioner and the respondents. Therefore, it would be extremely inappropriate to once again re-examine the credentials of the petitioner herein since she had herself resigned from the police force. The only aspect which could be stated is that, the respondents may, since she had resigned, accept the



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resignation and if there are any contributions made by her from her salary, pay the same to her account and release that particular amount.

If she is entitled to any other monetary benefit, the same shall be disbursed to her.

(8) The writ petition stands **dismissed**. No costs.

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AP

Internet : Yes

To

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