



WP.No.29652 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.08.2023

CORAM

THE HON'BLE Mr. JUSTICE **G.K.ILANTHIRAIYAN**

W.P. No.29652 of 2015

P.Sheeba

....

Petitioner

Vs

1. The Director General of Police,
Mylapore, Chennai – 600 004.

2. The Commandant,
Tamil Nadu Special Police XV Battalion,
Vellore @ Avadi,
Chennai – 600 054.

....

Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India praying to issue Writ of Certiorarified Mandamus calling for the records of the proceedings of the 1st respondent herein namely the Director General of Police, Mylapore, Chennai -600 004, bearing Rc.No.209089/AP IV (2)/2013 dated 23.07.2015, Proceedings of the second respondent bearing PR No.08/2006 dated 17.10.2006 namely Commandant, 15th Battalion, Tamil Nadu Special Police, Avadi @ Vellore, Chennai 600 054, quash the said two proceedings and consequently direct the 1st and 2nd respondents herein to reinstate the petitioner into service as Grade II Police Constable in the Tamil Nadu Special Police, Vellore @ Avadi, Chennai – 600 054, with effect from



WP.No.29652 of 2015

04.05.2005 FN and to treat the period of service from 04.05.2005 FN to date of rejoining duty as one of duty for all purposes with attendant service and monetary benefits and continuity of service for the above said period together with back wages for the period from 04.05.2005 FN to date of re-joining duty.

For Petitioner : Mr.K.S.Govinda Prasad
For Respondents : Mr.M.Muthusamy
Government Advocate

ORDER

This Writ Petition has been filed challenging the order dated 23.07.2015 made in Rc.No.209089/AP IV(2)/2013 passed by the first respondent, thereby dismissed the petition and confirmed the order dated 17.10.2006 in PR No.08/2006 passed by the second respondent, thereby removed the petitioner from service.

2. Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents and perused the materials available on record.

3. The petitioner had joined duty as Grade II Women Police Constable in the Tamil Nadu Special Police XV Battalion, Vellore @ Avadi, Chennai. She was given basic training from 15.02.2005.



WP.No.29652 of 2015

Immediately, after her appointment, during the training period, she had applied for casual leave on 30.04.2005 and 01.05.2005 to attend funeral ceremony of her sister. She was granted leave subject to the declaration in leave application . However, she could not join training and she extended the leave for another two days through telegram. However, she was absent without intimation from 04.05.2005. Therefore, she was declared as deserter from 04.05.2005 and she was served with a charge for her unauthorised absence.

4. Without being satisfied with the explanation submitted by the petitioner, domestic enquiry was ordered. The petitioner participated in the domestic enquiry and the Enquiry Officer found the charge was proved against her. Based on the enquiry report, the second respondent passed final order, thereby imposing the punishment of removal from service.

5. The learned counsel appearing for the petitioner would submit that only due to illness of her father and demise of her sister, the petitioner was not able to join in the training. However, the unauthorised absence would not amount to misconduct of service and the punishment



WP.No.29652 of 2015

of removal from service is disproportionate to the charge.

WEB COPY

6. A perusal of the counter filed by the respondent revealed that after extension of leave for two days and he had to turn up for training on 04.05.2005. However, she did not turn up and remained absent without any intimation for more than 21 days. Therefore, she was struck off as a deserter, as per Police Standing Order 88(1) New 95 (i) from 04.05.2005. Accordingly, the petitioner was served with a charge memo. After receipt of the charge memo, the petitioner also requested to discharge her from service permanently, since she had to look after her husband and child. Further as per Rule no leniency could be shown to a candidate who deserts the basic training without any intimation. She was not fit to continue in the disciplinary police force. Further, the final order was passed by the second respondent on 17.10.2006. After a period of seven years, she had submitted a mercy petition before the first respondent to cancel the order of punishment. In fact, the Appellate Authority had also reviewed the order passed by the first respondent and confirmed the same.

7. In view of the above, this Court finds no infirmity or



WP.No.29652 of 2015

illegality in the order dated 23.07.2015 in Rc.No.209089/AP IV(2)/2013

passed by the first respondent and the order dated 17.10.2006 in PR

No.08/2006 passed by the second respondent. Therefore, the writ

petition is devoid of merits and is liable to be dismissed. Accordingly,

this writ petition stands dismissed. There shall be no order as to costs.

09.08.2023

Index:Yes/No

Internet:Yes/No

Lpp

To

1. The Director General of Police,
Mylapore, Chennai – 600 004.

2. The Commandant,
Tamil Nadu Special Police XV Battalion,
Vellore @ Avadi,
Chennai – 600 054.

G.K.ILANTHIRAIYAN,J.



WEB COPY



WP.No.29652 of 2015

Lpp

W.P. No.29652 of 2015

09.08.2023