



W.P.No.21358 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.02.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.21358 of 2016

P.Siva

...Petitioner

Vs.

**The Superintendent of Police,
Tiruvannamalai District**

...Respondent

PRAYER: Writ Petition filed under Article 226 of Constitution of India, seeking Writ of Certiorarified Mandamus to call for the records of the respondent in its Na.Ka.No.H1/209/19949/2015 dated 04.09.2015 and quash the same and consequently, direct the respondents to re-instate the petitioner into service.

For Petitioner : Mr.V.Vijay Shankar

**For Respondents : Mr.K.H.Ravikumar
Government Advocate**

ORDER

The petitioner herein who was appointed on compassionate ground on 11.10.2010, was posted as a Data Entry Operator through proceedings of the respondent herein dated 14.10.2010. For his involvement in a criminal case in Crime No.269 of



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2015 for an offences under Section 498A, 304B of IPC, he was issued with a show cause notice dated 22.07.2015. Not being satisfied with the petitioner's reply to the show cause notice, the impugned order dated 04.09.2015 was passed terminating the petitioner from his service. As against the order of punishment, the petitioner had preferred an appeal before the Deputy Inspector General of Police, Vellore range, Vellore, that was rejected on 02.11.2015 and his further review petition to the Director General of Police, Tamil Nadu, was also rejected on 25.11.2016.

2. Admittedly, no enquiry was conducted after the show cause notice was issued. As a matter of fact, no charges also were framed against the petitioner apart from the show cause notice. Such a procedure is alien to service jurisprudence. When the petitioner was on a regular appointment on compassionate ground, the respondent ought to have framed charges under Rule 17 of the Tamil Nadu Civil Services (Discipline and Appeal) Rules and after extending due opportunity to the petitioner, the enquiry ought to have been conducted and in case, the charges against the petitioner are held to



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be proved, necessary further course of action can be taken on consideration of his further explanation to the charges. All these procedures have been given a go by.

3. On the other hand, the respondent had referred to the petitioner's implications in the criminal case as well as his arrest and nothing more. With regard to consideration of the petitioner reply to the show cause notice dated 22.07.2015, there is a single line stating that the explanation is unacceptable. Non consideration of the reasoning given by the petitioner in a show cause notice has also been addressed in the impugned order. On a over all perusal of the order of punishment, it can be said that the punishment itself is in violation of the principles of natural justice.

4. The learned Additional Government Pleader submitted that the report of the RDO dated 08.07.2015 was considered and thereby, the decision to award the major punishment was taken. Such a reason is neither assigned in the impugned order nor in the counter affidavit filed by the respondent. Even assuming that the RDO



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report was considered for the purpose of taking a decision for imposition of punishment, such a report cannot be relied upon without giving an opportunity to the petitioner, which should be done only during the course of a Disciplinary enquiry. The respondent cannot bring forth facts that are neither a part of the impugned order nor the counter affidavit and hence, the grounds raised by the learned Additional Government Pleader does not require the interference. At this juncture, the learned Additional Government Pleader submitted that the criminal case against the petitioner which emanated and culminated in SC No.182 of 2016 is still pending before the Vellore Mahila Court, Thiruvannamalai.

5. Though, the present impugned order of punishment may not be sustainable in view of the violation of the procedures adopted by the respondent in imposing the punishment, this Court is of the view that his involvement in a criminal case can still be construed as a misconduct and thereby, liberty can be granted to the respondent to proceed against the petitioner in accordance with law.



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6. In the light of the above findings, the impugned order in Na.Ka.No.H1/209/19949/2015 dated 04.09.2015 on the file of respondent is quashed. Consequently, there shall be a direction to the respondent herein to forthwith reinstate the petitioner back into service within a period of four weeks from the date of receipt of a copy of this order altogether with all service and monetary benefits.

7. In case, the respondent intends to proceed against the petitioner for his involvement in the criminal case which is said to be pending, liberty is hereby granted to them to frame appropriate charges in accordance with the service regulations governing them. Accordingly, this writ petition stands allowed. No costs.

20.02.2023

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Index:Yes/No
Internet:Yes/No

M.S.RAMESH, J.,

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To



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The Superintendent of Police,
Tiruvannamalai District

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