



W.P. No. 31693 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

Dated: 11.04.2023

Coram:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P. No. 31693 of 2013

M. Jayaraman

... Petitioner

Vs.

1. The Deputy Inspector General of Police
Villupuyam Range
Villupuram

2. The Superintendent of Police
District Police Office
Thiruvannamalai District

3. The Superintendent of Police
District Police Office
Cuddalore District

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to pass a Writ of Certiorarified Mandamus, to call for the records of the proceedings of the second respondent passed in P.R.51/2011u/r 3(b) of TNPSS dated 13.4.2013 and the order passed in the appeal by the first respondent in C.no.B2/AP.42/6554/2013 dated 1.6.2013 and quash the same



W.P. No. 31693 of 2013

with consequential direction, directing the respondents to reinstate the petitioner into service with all attendant and monetary benefits

For Petitioner : Mr.V. Ravikumar
For Respondents : Mr.U.M. Ravichandran
Special Government Pleader

ORDER

Challenging the punishment of compulsory retirement from service, vide order dated 13.04.2013, the petitioner has preferred the present Writ Petition, whereby the appellate authority also confirmed the above said punishment imposed on the petitioner.

2.It is the case of the petitioner that he joined as a Grade II Constable in the office of the respondents on 31.10.1997 and subsequently promoted to the post of Head Constable. While so, for the criminal cases levelled against the petitioner, Departmental proceedings was initiated under Rule 3 (b) of the Tamil Nadu State Police Subordinate Service Rules, vide proceedings of the 3rd respondent in P.R.No.51/2011, with the following charges:-



W.P. No. 31693 Of 2013

(i) Charge No.1

WEB COPY

He has lent money Rs.10,000/- to one Mr.Elankumar during the year 2007, for interest and thereby violated the Conduct Rules.

(ii) Charge No.2

He has made allegation against one Tmt.A.Manomozhi, Police Constable with Thiru.Manavalan, Inspector of Police, by lower down her image and thereby violated the Conduct Rules.

(iii) Charge No.3

After expiry of Medical Leave of 41 days for the period from 08.02.2011 to 20.03.2011, he was unauthorized absent from duty, with effect from 21.03.2011, without any permission or intimation.

(iv) Charge No.4

Vide District Police Office, Cuddalore, No.164/2011 dated 21.02.2011, he was transferred to Cuddalore District, on administrative reasons, in view to disobey the order of transfer, he has extended the Medical Leave, without any passport.



W.P. No. 31693 of 2013

(v) Charge No.5

WEB COPY

While he was under suspension, he has not resided in the Head Quarters at Titagudi and he has not intimated his residential address of Titagudi, and thereby violated the Conduct Rules.

(vi) Charge No.6

He has involved in the Criminal Cases registered in Cr.No.163/2011, under Section 4 of the Tamil Nadu Prohibition of Charging Exorbitant Interest Act, 2003 and under Section 4 of Tamil Nadu Prohibition of Women Harassment Act and the same was registered in Cr.No.3/2011 and arrested and sent to jail and thereby lower down the image of police in public.

3.During the course of Departmental Proceedings, the Trial Court acquitted the petitioner from the Criminal Proceedings, which are also included as the charges in the Departmental Proceedings. Since the Criminal Proceedings ended in acquittal, the charge Nos.1, 2 and 6 are also replica of the same set of facts of the criminal cases, the Enquiry Officer held that the charges 1, 2 and 6 are not proved.



W.P. No. 31693 of 2013

4.The petitioner submitted his explanation, on receipt of the Charge Memo dated 09.05.2011. Having not satisfied with the explanation given by the petitioner, an Enquiry Officer was appointed, who conducted enquiry and submitted report, holding that the charge Nos.3, 4 and 5 levelled against the petitioner were proved. Based on the report of the Enquiry Officer, the 2nd respondent, by his proceedings, dated 13.04.2013, awarded the punishment of compulsory retirement from service.

5.Aggrieved against the order of punishment, Appeal preferred by the petitioner also got dismissed by confirming the punishment of compulsory retirement from service. Assailing the above orders, the petitioner has come forward to file the present Writ Petition.

6.The learned counsel appearing for the petitioner vehemently contended that a false case was foisted against the petitioner due to personal enmity. The learned counsel further contended that all the respondents had mechanically accepted the findings of the enquiry officer, which are not



W.P. No. 31693 Of 2013

based on any documentary evidence. The 1st respondent, without even any discussion on the grounds of appeal, confirmed the order of the 2nd respondent and without assigning any valid reasons, had rejected the same, and therefore, sought for setting aside the impugned proceedings.

7.Per contra, the learned Special Government Pleader appearing for the respondents, reiterating the averments made in the counter affidavit, contended that the Enquiry Officer, in his findings, on the basis of the oral evidence of prosecution witnesses and through documentary evidences, held that the charges levelled against the petitioner were proved and based on the same, the 2nd respondent awarded the punishment of compulsory retirement from service.

8.Heard the learned counsel for the petitioner and the learned Special Government Pleader appearing for the respondents and perused the materials.



W.P. No. 31693 of 2013

9. On perusal of records, this Court made it clear that the authorities, who decide the appeals, should pass speaking orders assigning reasons for arriving at conclusions either way. In the present case, although the petitioner raised specific legal points in his appeal to substantiate his plea that the extreme punishment of compulsory retirement is absolutely unwarranted, the respondents mechanically confirmed the punishment of compulsory retirement.

10. Further, for the charge of unauthorised absence, punishment of compulsory retirement is too harsh. Similar issue was considered by this Court in W.P.No.12619 of 2001 dated 13.11.2009 and in W.P.No.40097 of 2002 dated 23.12.2009, wherein this Court has followed the Judgment of the Hon'ble Supreme Court reported in ***AIR 2009 SC 2458 (Jagdish Singh v. Punjab Engineering College)*** wherein the Supreme Court modified the punishment of dismissal in a case of unauthorised absence and ordered reinstatement without back wages but with continuity of service.



W.P. No. 31693 of 2013

11. Further, on going through the reasons stated by the petitioner for his absence from duty is very well supported by the documentary evidence that the petitioner was taking treatment in the police hospital for having pain in his testis.

12. Therefore, this Court feels that it is a fit case, where this Court should step in in the interest of justice and set aside the punishment of compulsory retirement. Accordingly, the punishment of compulsory retirement from service imposed vide proceedings dated 13.04.2013 is set aside. By the passage of time, the petitioner might have reached the age of superannuation and hence, the respondents are directed to allow the petitioner to retire from service, by fixing his last working day as his date of retirement and extend all the retirement benefits to him.

13. With the above directions, this Writ Petition stands allowed.

No costs.

11.04.2023

Jer

Page No.8/10



W.P. No. 31693 of 2013

WEB COPY

Index: Yes/No

Internet: Yes/No

Speaking Order: Yes/No

To

1. The Deputy Inspector General of Police
Villupuyam Range
Villupuram

2. The Superintendent of Police
District Police Office
Thiruvannamalai District

3. The Superintendent of Police
District Police Office
Cuddalore District



WEB COPY



W.P. No. 31693 of 2013

J.NISHA BANU, J.,

Jer

W.P. No. 31693 of 2013

11.04.2023