



W.P.No.32780 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Dated : 20.03.2023

Coram:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P.No.32780 of 2013

K.Thambuswamy

..Petitioner

Vs

1.The Director General of Police

Tamil Nadu

2.The Superintendent of Police

Tiruvarur

3.The Deputy Inspector General of Police

Thanjavur Range

Thanjavur

..Respondents

Prayer : Petition filed under Article 226 of Constitution of India, praying to issue a writ of certiorarified Mandamus calling for the records on the file of the 2nd respondent in connection with (i) charge no.PR No.54/2002 dated 23.11.2003 and (ii) order of dismissal from service in D.O.No.298/2004



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R.C.No.K1/PR54/2002 dated 14.02.2004 and (iii) on the file of the 1st respondent in connection with the dismissal of Mercy Petition in RC.No.108614/AP.1(1)/2012 dated 17.04.2013 and quash the same and consequently direct the respondent to reinstate the petitioner in service with all consequential service and monetary benefits and grant him such other further relief.

For petitioner : Ms.T.Ananthi

For respondents : Mr.P.Kumaresan

Addl Advocate General

Assisted by Mr.U.M.Ravichandran, Spl.G.P.

ORDER

This writ petition is filed praying to quash (i) the charge No.PR No.54/2002 dated 23.11.2003 ; (ii) order of dismissal from service dated 14.02.2004 and (iii) to quash the dismissal order passed in Mercy Petition in RC.No.108614/AP.1(1)/2012 dated 17.04.2013 and consequently direct the respondent to reinstate the petitioner in service with all consequential



service and monetary benefits.

2. As per the averments in the writ petition, it is transpired that petitioner who was working as Grade I P.C., was dismissed from service after departmental enquiry proceedings based on 4 charges. The charges is with regard to the occurrence on 26.11.2001 that the petitioner during the existence of 1st marriage had relationship with another lady and thereby violated the Subordinate Police Officers Conduct Rules. The other charge was that he deserted the police force from 25.08.2001 without leave or permission.

3. The petitioner's mercy petition as against the dismissal order was also dismissed by order dated 03.04.2012.

4. Ms.T.Ananthi, learned counsel for the petitioner would submit that as far as charge levelled against the petitioner that during the existence of the 1st marriage, he had relationship with another lady and thereby violated the Subordinate Police Officers Conduct Rules, is concerned, with regard to



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the criminal complaint filed in Crime No.482 of 2001, the same was taken in C.C.No.351 of 2002. The learned Judicial Magistrate, Tiruvarur, after elaborate trial and arguments, delivered judgment on 23.07.2020, acquitting the petitioner from the criminal charges holding that there is no material for the offence under Section 498 IPC and that the prosecution has failed to prove the case against the accused beyond any reasonable doubt. Thereby, the learned Judicial Magistrate, acquitted the petitioner/accused and held that the petitioner is not found guilty for offence under Section 497 and 498 IPC.

5. Heard both sides and perused the records including the judgment passed in C.C.No.351 of 2002 very carefully.

6. In view of the judgment passed in C.C.No.351 of 2002 dated 23.07.2020 by the learned Judicial Magistrate, Tiruvarur, holding that the charges were not established, this court is of the view that there is no sufficient materials to uphold the charges framed against the petitioner.



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Therefore, the punishment imposed on the petitioner for the misconduct and violation of orders of the Subordinate Police Officers Conduct Rules, is not sustainable.

7. For the above reasonings, this writ petition is allowed with the following observations:-

(i) The impugned orders dated 23.11.2003, 14.02.2004 17.04.2013 are set aside.

(ii) The petitioner was aged 51 years at the time of filing of this writ petition in the year 2013. Since the petitioner has reached the age of superannuation by this time, reinstatement in service cannot be ordered. However, the respondents are directed to pay the retirement benefits for the service rendered by the petitioner by treating the dismissal from service as one of compulsory retirement and pay all the monetary benefits. Further, the petitioner is entitled to the retirement and monetary benefits for the service rendered by him. The respondents are directed to pay the retirement and monetary benefits within a period of three months from the date of receipt of



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a copy of this order. No costs.

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Index: Yes/No

nvsri

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nvsri

To

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