



WEB COPY



W.P.No.17222 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.08.2023

CORAM :

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P.No.17222 of 2018
and W.M.P.No.20497 of 2018

P.Ranjithkumar

.. Petitioner

VS

1.The Principal Secretary to Government,
Home (Pol.9) Department,
Fort St.George, Chennai – 09.

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

3.The Commandant,
Tamil Nadu Special Police III Battalion,
Veerapuram, Avadi, Chennai.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus calling for the entire records relating to the impugned G.O. issued by the first respondent in G.O.(D).No.9 Home (Pol.9) Department dated 24.01.2017 and quash the same and consequently direct the respondents to reinstate the petitioner into service.

For Petitioner : Mr.C.Prakasam

For Respondents : Mr.R.Neethi Perumal
Government Advocate



W.P.No.17222 of 2018

ORDER

WEB COPY

Writ petition has been filed in the nature of a certiorarified mandamus seeking records relating to G.O.(D).No.9, Home (Pol.9) Department dated 24.01.2017 issued by the first respondent and quash the same and consequently direct the respondents to reinstate the petitioner into service.

2. The petitioner was appointed as Police Constable Grade II at Tamil Nadu Special Police on 11.12.2003. He stated that his mother was affected by paralysis. He married and a male child was born. It is stated that his wife deserted him when the child was just six months old. The petitioner had to look after the child and his mother. He was not able to attend duty or join duty. He was then transferred from Tamil Nadu Special Police to City Special Police. He took treatment for his stress and looked after his child and his mother. He did not join duty in the year 2008. He could not also handle the weapons. He was not able to spend time in police duty. He also suffered mentally.

3. Thereafter, the third respondent, the Commandant, Tamil Nadu Special Police III Battalion at Avadi in Chennai had conducted an enquiry consequent to the absence of the petitioner



W.P.No.17222 of 2018

herein continuously for a long period from duty and passed an order of removal from service on 31.07.2015.

4. The petitioner then filed an appeal before the Deputy Inspector General of Police, Armed Police at Chennai but the said official rejected the appeal and passed orders vide proceedings dated 01.09.2015. He then submitted a mercy petition before the second respondent, the Director General of Police, which was also rejected by proceedings dated 08.01.2016. He then approached the first respondent / Government and had sought cancellation of the punishment of removal of service and sought reinstatement but the first respondent also rejected that particular request of the petitioner and issued G.O.(D) No.96, Home (Pol.9) Department dated 24.01.2017. Questioning all these proceedings, the petitioner has filed the present writ petition.

5. In the counter affidavit filed by the third respondent, it had been stated that the petitioner had joined the police department on 11.12.2003. He worked at Tamil Nadu Special Police, III Battalion at Veerapuram from 2004 till 07.01.2008. Even though it may not be directly relevant, however, it must be stated that even in that particular period of 4 years, he had suffered three



W.P.No.17222 of 2018

punishments for absenting himself from duty without information for a period of more than 21 days, again absenting himself from duty without information for more than 60 days and again absenting himself from duty without information for more than 60 days. It is stated that any absence for more than 60 days would be taken as a confirmed desertion and any absence for more than 21 days would be treated as desertion.

6. It is thus seen that even before the woes of the petitioner vis-a-vis his wife had commended, he had been consistently absent from duty. Thereafter, the petitioner had again continued to absent himself and was finally relieved by order dated 07.01.2008 and was directed to report to Greater Chennai Police, Armed Reserve. He gave a petition on 14.07.2014, to the Director General of Police to take him back in service. The disciplinary proceedings had been initiated against him for absence of more than six years. He stated about his family situation and pleaded that they were the reasons for which he was absent.

7. It had been specifically stated in the counter affidavit that though he stated that his mother was unwell, he had not produced any document to show that the said averment was



W.P.No.17222 of 2018

factually correct. It had been finally stated that after a lapse of seven years, he had submitted a petition before the second respondent seeking to take him back into service. It had been contended that the petitioner having absented himself voluntarily from duty cannot be reinstated and the orders impugned have been justified by respondents.

8. Heard Mr.C.Prakasam, learned counsel for the petitioner and Mr.R.Neethi Perumal, learned Government Advocate for the respondents.

9. The petitioner herein had been originally appointed as Police Constable Grade II on 11.12.2003. As a Police Constable, the nature of duties would be to first maintain mental stability and to be physically fit. Maintenance of mental stability is extremely important in any police personnel since there has to be quick reaction in terms of need. As a police person in the Police Special Battalion though he was in the reserve category, still whenever the situation arises, he would be called upon to join duty immediately. If he is absent to that extent, the police strength would be depleted.



W.P.No.17222 of 2018

10. Even according to the petitioner, he had issues with stress and as a matter of fact, in his affidavit he had stated that he 'mentally suffered'. In the affidavit he also stated, since he was mentally disturbed, he should not 'handle the weapons'. A responsibility was thrust on the petitioner that he should devote his life as an armed personnel and as an uniformed personnel for the sake of the society. If he had any doubts about his own mental stability and about his own ability to handle weapons, it would only be safe that he withdraws himself from the police force. Having a loaded weapon and possessing it when he is mentally disturbed, would cause harm or injury to his fellow uniformed personnel or any other innocent person or even to himself. Therefore, not only mental stability is one of the basic qualities of any uniformed services personnel but also physical capacity and also the ability to overcome any stress. If the petitioner lacks that, whether he absented himself from duty or not, he stands disqualified from working as Police Constable.

11. The petitioner had withdrawn himself from attending duty for well over six years. The reason he had given was that his wife has deserted him leaving behind a six month old child and his mother was not well and he had to look after the child and mother.



W.P.No.17222 of 2018

It is really appreciable that he devoted time to look after his mother and also to bring up his child. But at the same time, having done that, he cannot now go back to the force, particularly when he has not provided any proof about the medical illness of the mother. The petitioner cannot place the blame or take the shield of his child and his own mother for his own continuous absence. Overcoming obstacles is one of the main ingredients of any uniformed personnel. He must overcome obstacles not only in his domestic affairs but also in public service. If he is not able to handle the situation, a big question mark will arise whether in a crucial situation he would react in a proper manner. These are all larger issues which any uniformed personnel has to address.

12. The respondents have taken a decision to remove him from service. The petitioner should have atleast reported for duty and sought leave. The respondents had also stated about his past conduct where he had also taken three spells of leave, leading to inference of desertion on one occasion and confirmed desertion on two occasions. The respondents cannot be expected to put up with indiscipline of this nature continuously forever. The petitioner may search out for other opportunities and the Court can only wish him well in that regard.



W.P.No.17222 of 2018

WEB COPY

13. Writ petition stands dismissed. I am confident that if the petitioner is entitled for monetary benefits, whatever is eligible, would be paid to him, provided he makes a representation in this regard. No costs. Connected miscellaneous petition is closed.

21.08.2023

Index:Yes/No

Neutral Citation:Yes/No

ssm

To

1.The Principal Secretary to Government,
Home (Pol.9) Department,
Fort St.George, Chennai – 09.

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

3.The Commandant,
Tamil Nadu Special Police III Battalion,
Veerapuram, Avadi, Chennai.



WEB COPY



W.P.No.17222 of 2018

C.V.KARTHIKEYAN,J.

ssm

W.P.No.17222 of 2018

21.08.2023