



WEB COPY



WP.No.22338 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.07.2023

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THE HONOURABLE MR. JUSTICE N.SATHISH KUMAR

WP.No.22338 of 2023
and W.M.P.Nos.21708 & 21710 of 2023

G.Ramamurthy

.. Petitioner

Versus

The Superintendent of Police
Tiruvannamalai

.. Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the respondent in connection with the impugned order issued by the respondent in D.O.No.618/2023, C.No.H1/65/12793/2023 dated 05.07.2023 and quash the same and further direct the respondent reinstate the petitioner into service.

For Petitioner : Mr.R.Dhinesh Kumar

For Respondents : Mr.P.Baladhandayutham
Special Government Pleader

ORDER

This writ petition has been filed challenging the suspension order dated 05.07.2023 as against the petitioner on the basis of the alleged contract of second marriage during the subsistence of the first marriage.



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2. Though the main ground on which the impugned order has been challenged is that on the verge of his retirement, the impugned suspension order is passed. Secondly, only on the basis of FIR registered in Crime No.6 of 2013 for the offence under Section 494 IPC dated 27.03.2023, he has been placed under suspension.

3. On perusal of the record, this Court has called for explanation and directed the respondent to produce files. Accordingly, the files have been produced before this Court. On perusal of the same, in fact, a private complaint has been filed before the learned Judicial Magistrate No.I, Thiruvannamalai and the same has been forwarded to the concerned police with a direction to make a preliminary enquiry and file an FIR. On the basis of such direction, the FIR has been filed.

4. Though as far as offence filed under Chapter XX of Indian Penal Code, the Court can take cognizance only on the basis of a private complaint. The fact remains that the FIR has been registered only on the basis of the directions of the Court. This is a separate aspect.



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5. Now, the report produced before this Court indicate that even in the Service Register of the Petitioner, one Amudha is shown as wife as early as during 1992. Now, the allegations is that he has contracted a 2nd marriage on 31.03.2002. Therefore, when the Service Register itself indicate that there was an existence of first wife and he has nominated her in the Service Register Records, hence, charges proceeding has to continue. Therefore, merely, on the basis of Government Order that the last minute suspension should be avoided, suspension cannot be interfered.

6. On perusal of the Government Order in G.O.Ms.No.144, Personnel and Administrative Reforms (N) Department dated 08.06.2007, it would indicate that the Government has issued guidelines to avoid suspension on the last date of retirement. This Court is of the view that such guidelines cannot be applied mechanically, it has to be applied on the facts and circumstances of each cases. Admittedly, the petitioner was suspended on 05.07.2023 much prior to his retirement on the serious charges of contracting second marriage as the same violates the Conduct Rules, even de hors the FIR, the departmental proceedings can also be proceeded.



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WEB COPY 7. Such view of the matter, I do not find any merits in this case.

Accordingly, this writ petition stands dismissed. Consequently, connected miscellaneous petitions are closed. No costs.

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dhk

Internet: Yes/No

Neutral Citation: Yes/No

To

1.The Superintendent of Police
Tiruvannamalai

2.The Public Prosecutor
High Court, Madras



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N.SATHISH KUMAR, J.

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