



W.P. No.31097 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **28.07.2023**

CORAM

THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

W.P.No.31097 of 2018

P.S.Goutham

... Petitioner

-Vs-

1. The Director General of Police
Office of DGP,
Mylapore, Chennai – 04.
2. The Commissioner of Police
Office of Commissioner of Police
Coimbatore – 641 018.
3. The Commandant,
Tamilnadu Special Police, VI -Battalion
Madurai -14.

... Respondents

PRAYER: Writ Petition under Article 226 of the Constitution of India praying for a Writ of Certiorarified Mandamus, call for the records relating to the order of the third respondent in Na.Ka.No.A2/1744/2016, Team Order No.187/2016 dated 14.03.2016 quash the same and consequently direct the first and third respondents herein to appoint the petitioner in the post of



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Police Constable (Men) Grade II, Tamilnadu Special Police with all consequential service and monetary benefits in the interest of Justice.

For Petitioner : Mr. A.Edwin Prabakar

For Respondents : Mr. S.Ravi Kumar
Special Government Pleader

ORDER

The Writ Petition has been filed in the nature of Certiorarified Mandamus seeking records relating to the order of the third respondent / the Commandant, Tamilnadu Special Police, VI -Battalion, Madurai -14 in Na.Ka.No.A2/1744/2016, Team Order No.187/2016 dated 14.03.2016 and quash the same and direct the first and third respondents, the Director General of Police, Office of DGP, Mylapore, Chennai – 04 and the Commandant, Tamilnadu Special Police, VI – Battalion, Madurai -14, to appoint the petitioner in the post of Police Constable (Men) Grade II, Tamilnadu Special Police with all consequential service and monetary benefits.



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2. The petitioner was originally a Personnel of Youth Brigade of Coimbatore City. He had subsequently participated in the selection process for the post of Police Constable (Men) Grade II in Tamilnadu Special Police. He was appointed as such by an order dated 12.02.2016. Thereafter, consequent to that particular selection, his post as Youth Brigade was subsequently absorbed into Tamilnadu Special Police. He had been discharged from the duty of Youth Brigade and relieved from Coimbatore City on 24.02.2016 afternoon. He was then directed to report before the Tamilnadu Special Police VI Battalion, Madurai on 25.02.2016. There is no document produced that he was continuously absent when he was functioning as Youth Brigade in Coimbatore City. The order of discharge was on 24.02.2016. On the next day, he should have reported before the Tamilnadu Special Police VI Battalion at Madurai. But unfortunately, he did not report. He did not report continuously. The terms under which he had to report provided a contingent that if anybody, who had been issued with appointment orders but had not reported for basic training even after two days from the date of commencement of training, then necessary action



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may be taken by the appellate authority concerned to cancel the appointment order. The petitioner having been part of the Youth Brigade was therefore under an obligation to report for training. He did not report for training.

3. The reason which is given is that he had a medical ailment and in this regard, documents have been produced on his behalf and filed along with the Writ Petition. The documents are of the month of September 2016 and not February 2016. But the documents which have been produced by the petitioner is the report of Best Scan Centre on 06.09.2016 about the Ultrasound Scan of Abdomen and it is contended that the petitioner had Gall bladder stones. Thereafter, various medical procedures had been taken and finally, the entire process went on till August 2017. Claiming that as a good reason for not being present for training, this Writ Petition has been filed after a representation has been given, which representation had been rejected by the respondents.



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4. In the impugned order, which is questioned by the petitioner herein, it had been stated that since the petitioner did not appear for the training for a continuous period of two days from 25.02.2016, the respondents had discharged him from duty and had removed him from service.

5. The learned counsel for the petitioner pleaded that the medical records of the petitioner should be considered by this Court. The learned counsel also pleaded that the earlier service as Youth Brigade should also be taken into consideration. It is contended that the entire service has now been wiped out and that the petitioner, who was dependent on that particular job is left high and dry.

6. The learned Special Government Pleader appearing for the respondents however on the other hand relies on the conditions which were given in the Memorandum with respect to former members of the Tamilnadu Special Police Youth Brigade and it had been very specifically



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stated by the learned Special Government Pleader that it had been provided that if they do not appear for training for two days, then the appointment should be cancelled.

7. It is also contended by the learned Special Government Pleader that it was only a temporary offer and therefore, it had been stated that the petitioner cannot claim any right for appointment. He had to appear for the training. He had not appeared and therefore, his appointment was cancelled. It is therefore been contended that the impugned order may be sustained by this Court.

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

9. The learned Special Government Pleader also produced the entire file relating to the petitioner herein and the orders passed. The memorandum which had been issued for absorbing his post in Tamilnadu



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Special Police Youth Brigade as Grade II Police Constable dated 08.02.2016 had been produced and it is seen that if the candidates do not appear for training for two days from the commencement of training, then the appointment would be cancelled. The order of the appointment has been produced by which such observation was stated and that order was dated 24.02.2016. The petitioner had received a copy of the same and thereafter, he should have appeared before the third respondent on 25.02.2016. He had failed to so appear before the third respondent. It is also stated by the learned Special Government Pleader that the directions to appear for training had been acknowledged by the petitioner herein. The signature is found in the records. Having come to note of the particular procedure, the petitioner should have reported first and then if there are any medical conditions should have taken medical treatment. He should not have remained absent once and for all and produce before this Court records relating to September 2016, nearly 7 months after the first date of calling for the training. The medical condition can never be related back to February 2016. The scan itself was done only on 06.09.2016.



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10. The learned counsel for the petitioner also stated that the petitioner is now prepared to subject himself for medical test. But the petitioner has no right to put that request forward since the appointment has been cancelled and the petitioner has no right to seek continuation in the service. He was only selected subject to training to be given to him and having not appeared for training, there was a right vested with the respondents to cancel his appointment. There is no corresponding right with the petitioner can seek appointment as a matter of right.

11. The reasons given in the Writ Petition cannot be taken into consideration by this Court. Hence, this Writ Petition stands dismissed.

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Index:Yes/No

Neutral Citation:Yes/No



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