



W.P.(MD).No.8261 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 09.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.8261 of 2023

and

W.M.P(MD) No.19581 of 2023

P.Seenivasan

... Petitioner

Vs.

1. The Director General of Police,
Office of the Director General of Police,
Mylapore,
Chennai – 600 005.

2. The Inspector General of Police,
Central Zone,
Tiruchirappalli,
Trichy.

3. The Superintendent of Police,
Karur District,
Karur.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order passed by the third respondent in Tha.Pa.No.83/A4/2015, dated 13.04.2017 and the impugned order passed by the first respondent in R.C.No.3518877/AP.(IV(1)/2022, dated 16.12.2022



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and quash the same and consequently direct the first respondent to reinstate the petitioner into service with all benefits.

For Petitioner : Mr.T.Antony Arul Raj
For Respondent : Mr.R.Suresh Kumar
Additional Government Pleader

ORDER

The present writ petition has been filed by a Grade-I Police Constable, challenging the order of dismissal imposed upon him on 13.04.2017 and the dismissal of the appeal by the appellate authority on 16.12.2022.

2. The petitioner herein was appointed as Grade-I Police Constable on 01.11.2003 and he was promoted as Grade - II Constable. While he was working in Kulithalai Police Station, Karur District, he was involved in a criminal case, and an FIR was registered as against the petitioner in Crime No.245 of 2014, on 26.08.2014. Based upon the said registration of FIR, the petitioner was placed under suspension, on 30.08.2014.

3. A charge memo was issued to the writ petitioner on 04.12.2015, framing three charges as against the writ petitioner. The first charge pointed



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out that the petitioner had remained unauthorizedly absent between 08.00 p.m on 25.08.2014 and 09.50 a.m on 26.08.2014. The other two charges related to the involvement of the writ petitioner in Crime No. 245 of 2014. After detailed enquiry, the petitioner was dismissed from service on 13.04.2017. The petitioner was acquitted by the criminal Court, on 21.10.2021.

4. Based upon the acquittal order passed by the criminal Court, the petitioner submitted a revision petition before the first respondent herein on 25.10.2022 requesting him to set aside the order of punishment. Since the said revision petition was not taken up, the petitioner had filed a writ petition in W.P(MD) No.26453 of 2022 seeking a direction to dispose of the revision petition. This Court, by an order, dated 23.11.2022, directed the first respondent to dispose of the revision petition filed by the writ petitioner within a period of eight weeks from the date of receipt of a copy of the order. In compliance with the orders of this Court, the first respondent herein has passed the impugned order on 16.12.2022 rejecting the revision petition filed by the petitioner. Challenging the said order, the present writ petition has been filed.



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5. According to the learned counsel appearing for the writ petitioner, the petitioner has been honourably acquitted by the criminal Court. According to the learned counsel for the writ petitioner, the first respondent has not considered the criminal Court judgment wherein the petitioner has been honourably acquitted. That apart, the order of dismissal for an unauthorized absence of one day is highly disproportionate and the first respondent ought to have set aside the order of punishment.

6. Per contra, the learned Additional Government Pleader appearing for the respondents had contended that the order of the criminal Court is not honourable acquittal, but he was acquitted only on benefit of doubt and therefore, it is for the competent authority to consider whether he could be reinstated or not. Hence, he further contended that the petitioner cannot be reinstated on being acquitted in the criminal case.

7. I have carefully considered the submissions made by the learned counsel on either side and perused the material on records.



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8. A perusal of the order impugned in the writ petition passed by the first respondent herein, on 16.12.2022 reveals that there is a passing reference in the said order relating to the acquittal of the writ petitioner. However, the nature of acquittal whether it is honourable or based on benefit of doubt, has not been considered. That apart, whether the acquittal order would be of any advantage to the writ petitioner and whether he could be reinstated in the service, is also not considered by the first respondent herein. The first respondent would also consider the effect of imposition of order of capital punishment, namely, dismissal for an unauthorized absence from 08.00 p.m on 25.08.2014 to 09.50 am on 26.08.2014. This absence has to be considered on merits and in accordance with law by the first respondent herein.

9. In view of the above said deliberations, the order of the appellate authority, viz., the first respondent herein, dated 16.12.2022 is hereby set aside. The matter is remitted back to the file of the first respondent herein for considering the revision petition, and pass orders on merits and in accordance with law within a period of twelve weeks from the date of receipt of a copy of this order.



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10. With the above said observations, this Writ Petition stands allowed.

There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

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NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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