



W.P.(MD).No.21105 of 2015

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.02.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.21105 of 2015

and

M.P(MD)No.1 & 2 of 2015

T.Vincent Alexandar

... Petitioner

Vs.

1.The Director General of Police,
Chennai-4.

2.The Commissioner of Police,
Tirunelveli City,
Tirunelveli District.

3.The Deputy Inspector General of Police,
Tirunelveli Range,
Tirunelveli District.

4.The Superintendent of Police,
Thoothukudi,
Thoothukudi District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the 4th respondent pertaining to its order bearing P.R.No.



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124 of 2013 dated 21.04.2014 and the consequential order of the 3rd respondent pertaining to its order bearing C.No.C4/AP.34/2014 dated 14.08.2014 and the consequential order passed by the 1st respondent in review application bearing R.Dis.No.157238/AP 2(1)/2014 dated 03.07.2015 and to quash the same.

For Petitioner : Mr.S.C.Herold Singh

For Respondents : Mr.R.Suresh Kumar
Additional Government Pleader

ORDER

This petition has been filed challenging the impugned order in P.R.No. 124 of 2013, dated 21.04.2014 and the consequential order confirming the punishment.

2. Pending writ petition, the petitioner had died on 25.07.2019. The charge against the petitioner is he had unauthorizedly absented himself without any prior permission from the higher officials. The contention of the petitioner is on 05.09.2013 he was suddenly admitted in hospital due to his illness and he has sent letter through registered post to grant leave for 15 days. Since he was in bed, he could not submit any request for leave extension. Without issuing any notice and without affording any opportunity, on 25.10.2013, the 4th



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respondent has declared the petitioner as deserter through order No.1278 of 2013 by proceedings, dated 25.10.2013. The petitioner was continuously on treatment and he was not in a position to report to duty within 60 days. But, the 4th respondent without considering the petitioner's physical condition, had confirmed the same vide order, dated 22.11.2013. On 16.12.2013, a show cause notice was issued for disciplinary proceedings. After initiating the disciplinary proceedings in P.R.No.124 of 2013, the petitioner was imposed with the punishment of removal from service on 21.04.2014. Aggrieved over the same, the petitioner had preferred an appeal and the same was rejected on 14.08.2014. Thereafter, the petitioner had preferred revision petition and the same was rejected vide order, dated 03.07.2015. Aggrieved over the same, the present writ petition is filed.

3. The respondents have filed counter stating that the petitioner is a habitual absentee and he was imposed with 9 punishment for the same. Therefore, after affording opportunity, enquiry was conducted against the petitioner and based on the evidence, it has been proved that the petitioner has absented himself without any prior permission and hence the punishment of



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removed from service was imposed. The learned Additional Government Pleader also submitted that the petitioner was imposed with series of punishments only for the unauthorized absence and in 2 occasion, the petitioner was punished for consuming alcohol during duty period and thereby, he has brought in disrespect to the uniform service. Therefore, a leniency cannot be shown against the petitioner. Hence, he prayed to dismiss the writ petition.

4. Heard Mr.S.C.Herold Singh, learned counsel for the petitioner and Mr.R.Suresh Kumar, learned Additional Government Pleader for the respondents.

5. On perusing the records, it is seen that the petitioner was unauthorizedly absented from 2013 onwards. He was not able to walk and he had real physical ailment. Hence, he was not having physical fitness to continue his job. Therefore, he was under treatment. Finally, the petitioner died on 25.07.2019 due to his ailment. Therefore, this Court is inclined to interfere with the punishment, so that his legal heirs would be entitled to the terminal



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benefits. Hence, the punishment of removal from service is modified as compulsory retirement by fixing the date of death i.e., 25.07.2019. However, the petitioner is not entitled to any monetary benefits from the date of punishment till the date of death. However, he is entitled to continuity of service. With this, the terminal benefits may be calculated and the same shall be disbursed to the legal heirs of the petitioner. The said exercise shall be completed within a period of eight (8) weeks from the date of receipt of a copy of this order.

6. With the above directions, this Writ Petition stands allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

06.02.2023

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

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S.SRIMATHY, J.

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