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W.P.Nos.6791, 6794, 6795 & 6796 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.02.2024

CORAM :

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.Nos.6791, 6794, 6795 & 6796 of 2023

W.M.P.No.6887, 6890, 6891 & 6892 of 2023

W.P.No.6791 of 2023

M.G.Munaf

...Petitioner

-Vs-

1. The Director General of Police,
Mylapore,
Chennai-600 004.
2. The Commissioner of Police,
Greater Chennai Police,
No.132, E.V.K.Sampath Road,
Vepery, Chennai-600 007.
3. The Joint Commissioner of Police,
Headquarters,
Greater Chennai Police,
O/o. The Commissioner of Police,
Vepery, Chennai-600 007.

...Respondents

Prayer in W.P.No.6791 of 2023: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records of the impugned order passed by the 2nd Respondent in R.C.No.28784/PR.IV(2)/2002, dated 18.01.2023 and quash the same as



W.P.Nos.6791, 6794, 6795 & 6796 of 2023

illegal and consequently direct the 2nd respondent to revoke petitioner's suspension order issued by the 3rd respondent in Rc.No.28784/PR.IV(2)/2002, CPO.No.1375/2022, dated 16.05.2022 and reinstate the petitioner into service.

W.P.No.6794 of 2023

S.Kumar

...Petitioner

-Vs-

1. The Director General of Police,
Mylapore,
Chennai-600 004.
2. The Commissioner of Police,
Greater Chennai Police,
No.132, E.V.K.Sampath Road,
Vepery, Chennai-600 007.
3. The Joint Commissioner of Police,
Headquarters,
Greater Chennai Police,
O/o. The Commissioner of Police,
Vepery, Chennai-600 007.

...Respondents

Prayer in W.P.No.6794 of 2023: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the entire records connected with the impugned order passed by the 2nd respondent in Rc.No.28784/PR.IV(2)/2002, dated 18.01.2023 and quash the same as illegal and consequently direct the 2nd respondent to revoke petitioner's suspension order issued by the 3rd respondent in Rc.No.28784/PR.IV(2)/2002, CPO No.1374/2022, dated 16.05.2022 and reinstate the petitioner into service.



W.P.Nos.6791, 6794, 6795 & 6796 of 2023

W.P.No.6795 of 2023

P.Jagajeevanram

...Petitioner

-Vs-

1. The Director General of Police,
Mylapore,
Chennai-600 004.
2. The Commissioner of Police,
Greater Chennai Police,
No.132, E.V.K.Sampath Road,
Vepery, Chennai-600 007.
3. The Deputy Commissioner of Police,
Motor Vehicle Wing,
Greater Chennai Police,
O/o. The Commissioner of Police,
No.132, E.V.K.Sampath Road,
Vepery, Chennai-600 007.

...Respondents

Prayer in W.P.No.6795 of 2023: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the entire records connected with the impugned order passed by the 2nd respondent in Rc.No.28784/PR.IV(2)/2002, dated 18.01.2023 and quash the same as illegal and consequently direct the 2nd Respondent to revoke in Rc.No.28784/PR.IV(2)/2002, CPO No.1292/2022, dated 09.05.2022 and reinstate the petitioner into service.

W.P.No.6796 of 2023

V.Chandra Kumar

...Petitioner



W.P.Nos.6791, 6794, 6795 & 6796 of 2023

-Vs-

1. The Director General of Police,
Mylapore,
Chennai-600 004.

2. The Commissioner of Police,
Greater Chennai Police,
No.132, E.V.K.Sampath Road,
Vepery, Chennai-600 007.

3. The Deputy Commissioner of Police,
Armed Reserve Force-I,
O/o.The Commissioner of Police,
No.132, E.V.K.Sampath Road,
Vepery, Chennai-600 007.

...Respondents

Prayer in W.P.No.6796 of 2023: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the entire records connected with the impugned order passed by the 2nd respondent in Rc.No.28784/PR.IV(2)/2002, dated 18.01.2023 and quash the same as illegal and consequently direct the 2nd Respondent to revoke petitioner's suspension order issued by the 3rd Respondent in Rc.No.28784/PR.IV(2)/2002, CPO.No.1293/2022, dated 09.05.2022 and reinstate the petitioner into service.

(In all W.P.s')

For petitioners : Mr.M.A.Gouthaman

For respondents : Mr.V.Veluchamy



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W.P.Nos.6791, 6794, 6795 & 6796 of 2023

Additional Government Pleader

COMMON ORDER

All these writ petitions have been filed challenging the order dated 18.01.2023 passed by the 2nd respondent thereby rejected the request made by the petitioners to revoke their order of suspension. All the petitioners were working in the same police station and the grievance of all the petitioners are common. Therefore, this Court inclined to pass common order.

2. The petitioners had joined in the police department as Grade-II Police Constable and promoted as Special Sub-Inspector of Police. On 18.04.2022 when police personnel was on night patrol duty in the Kellys junction and was under routine vehicle check-up, the accused Vignesh and Suresh alias Jollu Suresh were travelling in a Auto rickshaw bearing Reg.No.TN-14-F-5616. They were stopped by the police personnels as routine vehicle check up. They were found in an unstable condition with bleeding injuries and another one Suresh alias Jollu Suresh was with swelling and contusion injuries below the left knee and right shoulder. They



W.P.Nos.6791, 6794, 6795 & 6796 of 2023

answered in a doubtful manner and as such they were immediately brought to the police station. Both the accused are habitual offenders. Further, they also attempted to flee from the spot by threatening the police personnel with a sickle. Thereafter, they were brought to the K2 Ayanavaram Police Station. After recording their confession statement and also recovered a sword, copper brandy bottle and two kanja packets weighing 25 grams from the accused. FIR has been registered in Cr.No.127 of 2022 for the offences under section 341, 294(b), 353, 323 and 506(ii) of IPC.

3. The case of the petitioners is that except patrol vehicle driver, no one was posted for patrol duty and they were not present in the spot. Unfortunately, next day pulse rate of Vignesh dropped and as such he was taken to Kilpauk Medical College. However, he was declared dead by the doctors. In pursuant to the death of Vignesh, FIR has been registered in Cr.No.128 of 2022 under section 176 of IPC and the said case was transferred to CBCID and renumbered in Crime No.03 of 2022. Subsequently section was altered into section 302 of IPC r/w.3(ii) (v) of SC/ST Act, 1989 by the Inspector of Police, CBCID/OCU Unit-I, Chennai.



W.P.Nos.6791, 6794, 6795 & 6796 of 2023

In pursuant to the registration of FIR, the petitioners were placed under suspension with effect from 07.05.2022. They were arrested and remanded into judicial custody. Subsequently, they were released on bail. The CBCID had completed investigation and filed final report and the same was taken cognizance by the Special Judge/Principal Sessions Judge in Spl.C.C.No.175 of 2023 and the same is pending for trial. However, the petitioners were not served with any charge memo. Therefore, the petitioners approached this Court in W.P.No.33659 of 2022 challenging the order of suspension dated 16.05.2022 on the only ground of prolonged suspension. This Court by an order dated 15.12.2022, directed the 2nd respondent to pass final orders on the representation submitted by the petitioners seeking revocation of their suspension order within a period of four weeks from the date of receipt of copy of the order. However, their requests were rejected by the impugned order dated 18.01.2023 on the ground that criminal case is pending as against the petitioners.

4. On perusal of the counter filed by the 3rd respondent revealed that the custodial death is clearly proved by the charge sheet and they are



W.P.Nos.6791, 6794, 6795 & 6796 of 2023

now facing trial in Spl.C.C.No.175 of 2023 on the file of the Special Judge/Principal Sessions Judge, Chennai. However, they were not served with any charge memo for initiation of departmental proceedings. Now, all the petitioners are receiving subsistence allowance without having any work from 16.05.2022. Therefore, keeping the petitioners under suspension and paying subsistence allowance would not solve anything. The order of suspension is also pending from 16.05.2022. As per G.O.Ms.No.81, Human Resources Management (N) Department dated 04.08.2022 says that prolonged suspension means that Government pays a Government Servant without extracting any work from him. Therefore, the suspension should not be restored unless the concerned authority has considered all the relevant factors and recorded the reasoned conclusion that it is in the public interest to place the Government servant under suspension. Further, Government Servant has been suspended on the disciplinary proceedings contemplated, such proceedings should be initiated immediately and finalized normally within a period of six months. Therefore, prolonged suspension of the petitioners cannot be sustained, since they are receiving subsistence allowance without doing any work for the past two years. That apart, no



W.P.Nos.6791, 6794, 6795 & 6796 of 2023

disciplinary proceedings initiated as against the petitioners so far. Only reason for rejection of their representation seeking revocation of suspension is criminal case is pending against them.

5. In view of the above, the order of suspension as against the petitioners cannot be sustained and liable to be quashed. Accordingly, the order passed by the 2nd respondent dated 18.01.2023 is quashed. The 2nd respondent is directed to reinstate the petitioners and post them in any non sensitive post within a period of four weeks from the date of receipt of copy of this order.

6. With the above direction, these writ petitions are allowed. Consequently, connected miscellaneous petitions are closed. No costs.

26.02.2024

Index : Yes/No
Internet: Yes/No
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G.K.ILANTHIRAIYAN,J.
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To

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W.P.Nos.6791, 6794, 6795 & 6796 of 2023

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