



W.P.No.23815 of 2015

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.07.2024

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.No.23815 of 2015

V.Ravi

... Petitioner

Vs.

- 1.The Additional Director General /
Inspector General of Police,
Gandhi Irwin Road, Egmore,
Chennai - 600 008
- 2.The Deputy Inspector General of Prisons,
Coimbatore Range,
Coimbatore
- 3.The Superintendent of Prisons
Central Prison,
Salem
- 4.The Superintendent of Prisons
Central prison,
Vellore

...Respondents



W.P.No.23815 of 2015

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorari, calling for the records in the order bearing No. CC1/6110/2003 dated 6.1.2004 issued by respondent No.3, and the consequential orders bearing No. 3663/mu.vu/2004 dated 21.5.2010 passed by respondent no.2 and No.28487/EW/2010-1 dated 28.10.2010 passed by respondent no.1 and quashing the same.

For Petitioner : M/s.M.Radhakrishnan

For Respondents :
(for R1 to R4) : M/s.V.Jeevagiridharan, AGP

ORDER

The above Writ Petition has been filed by the petitioner to quash the order passed by the 3rd respondent on 06.01.2004 and the consequential orders dated 21.05.2010 and 28.10.2010 passed by the 2nd respondent and the 1st respondent respectively.

2. The case of the petitioner is that he had joined the respondent Department as a Warder Grade II in the year 1988. While so, working at the Sub Jail Namakkal, he had been issued with a charge memo dated 10.06.2003 under Rule 17(b) of the Tamilnadu Civil Services (Disciplinary and Appeal) Rule 1973. After enquiry, he was dismissed



W.P.No.23815 of 2015

WEB COPY

from service by an order dated 06.01.2004 passed by the 3rd respondent against which an appeal had been preferred by him to the 2nd respondent. Since the 2nd respondent was not passing orders in the appeal, the petitioner had moved this Court by filing W.P.No.36653 of 2010 seeking a direction to the 2nd respondent to decide the appeal at the earliest. This Court was also pleased to issue a direction to the 2nd respondent to dispose of the said appeal within a period of 12 weeks.

3. By an order dated 21.05.2010, the 2nd respondent had dismissed the appeal against which the petitioner had preferred a revision before the 1st respondent. The 1st respondent by his order dated 28.10.2010 modified the punishment of dismissal to one of reduction of pay by three stages for 3 years with cumulative effect affecting his pension. The petitioner has thereafter reported for duty as Warder Grade.II on 01.12.2010 at the Central Prison, Vellore.



W.P.No.23815 of 2015

WEB COPY

4. The petitioner would submit that he was awaiting the fixation of pay and for the arrears of salary for the period 06.01.2004 till 30.11.2010 when he was dismissed from service till the date when the dismissal order was set aside. However, instead of fixing the petitioner's pay, the 3rd respondent had issued a show cause notice dated 13.12.2012 asking the petitioner to show cause as to why the period between 06.01.2004 to 30.11.2010 should not be treated as leave without pay. Since the show cause notice was without jurisdiction the petitioner had filed W.P.No.1495 of 2013 which Writ Petition was pending at the time of the filing of this Writ Petition.

5. The respondents have filed a counter affidavit denying the allegations contained in the affidavit. The respondents would submit that the petitioner has indulged in activities which is not only dereliction of duty but also bringing disrepute to the Uniformed Services. Some of the misdemeanours/serious dereliction of duty of the petitioner have been set out in the counter affidavit as follows:-

"i. Found to be not in full uniform during duty



W.P.No.23815 of 2015

WEB COPY

hours.

ii. Sleeping during the night duty and when the Sub Jail Superintendence advised him to be alert had retorted in an indecent manner.

iii. When allotted to kitchen duty, the petitioner would not supervise the work of the prisoner but would be reading a paper or writing his personal diary.

iv. While guarding the prisoners he would engage in conversations with them about the prison administration and had developed contact with the prisoners to the extent that he would collect their personal details. Moreover, the petitioner would also purchase beedi, cigarette and matches for supplying to the prisoners.

v. On 20.03.2003, when the Sub Jail Superintendent had come on rounds the petitioner had threatened that he would shoot and kill the Sub Jail superintendent with his weapon thereby forcing the Sub



W.P.No.23815 of 2015

WEB COPY

Jail Superintendent to withdraw the musket and ammunition from the petitioner and keep/kept it under lock and key."

For all the above serious lapses, the proceedings under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules had been initiated against the petitioner.

6. The petitioner was asked to submit his written response within a period of 15 days. However, he had failed to submit his written response. The Additional Superintendent of Central Prison, Salem was appointed as an Enquiry Officer and enquiry was conducted on 02.08.2003, 03.08.2003, 06.08.2003 and 07.08.2003. The witnesses were examined in the presence of the petitioner and he was also permitted to cross-examine them. Thereafter, on completion of the enquiry, the enquiry officer had submitted his enquiry report which held all charges proved against the petitioner. The petitioner was given the enquiry report and asked to give his final representation which was also given on 23.10.2003. The disciplinary authority, namely, the Superintendent of Prison, Central Prison, Salem on



W.P.No.23815 of 2015

considering all the records, the show cause notices and the explanations awarded the punishment of dismissal from service by his proceedings dated 06.01.2004.

7. Though the petitioner had an appellate remedy before the Deputy Inspector General of Prison, Coimbatore Range, Coimbatore, he chose to move the Tamil Nadu Administrative Tribunal by filing O.A.No.1724 of 2004 to quash the punishment of dismissal from service. Since the matter was pending before the Tribunal, the 2nd respondent could not pass any orders on the representation of the petitioner dated 22.02.2004.. Thereafter, the matter was transferred to this Court and re-numbered as W.P.No.36653 of 2005. This Writ Petition was disposed of on 01.03.2010 with a direction to the 2nd respondent herein to dispose of the appeal within a period of 12 weeks.

8. The 2nd respondent had thereafter considered the petitioner's appeal and confirmed the punishment of dismissal from service. The



W.P.No.23815 of 2015

WEB COPY

respondents would submit that the claim of the petitioner that the 2nd respondent had not decided the appeal for a long time is absolutely erroneous. The petitioner had thereafter preferred a revision petition to the 1st respondent who by his proceedings dated 28.10.2010 had modified the punishment of dismissal to one of reduction of pay by three stages for 3 years with cumulative effect affecting his pension. Thereafter, the petitioner was posted at the Central Prison, Vellore. He had also joined the duty as Warder Gr.II on 01.12.2009 at the Central Prison, Vellore. Therefore, the respondents would seek to have the Writ Petition dismissed.

9. Heard the counsels on either side.

10. It is brought to the notice of the Court that subsequently by order dated 08.01.2019, the petitioner has once again been dismissed from service. The petitioner who had been dismissed from service on 06.01.2004 and who had been reinstated in service pursuant to the orders of the 1st respondent in the year 2010 has moved the above writ



W.P.No.23815 of 2015

petition to quash the order of dismissal passed as early as on 06.01.2004 nearly 11 years after the punishment. Further, the petitioner had challenged the order of dismissal which ultimately has been modified by the 1st respondent by his order dated 28.10.2010. Even this order has not been challenged by the petitioner immediately. On the contrary, he had joined duty as Warder Grade II in the Central Prison, Vellore on 01.12.2010. Five years thereafter the present writ petition has been filed. This is clearly a case of laches. That apart, it is also seen that post the modification of the punishment by the 1st respondent, the petitioner had filed W.P.No.1495 of 2013 before this Court questioning the show cause notice issued by the 3rd respondent herein asking the petitioner to show cause as to why his period of unemployment i.e. from 06.01.2004 to 30.11.2010 should not be treated as leave without pay.

11. In the said writ petition, the petitioner has not questioned the orders impugned in the present writ petition. The said Writ Petition has been disposed of asking the petitioner to send his response to the



W.P.No.23815 of 2015

WEB COPY

show cause notice and directing the 4th respondent to consider the same and pass orders thereon.

12. It is seen that the petitioner has not chosen to question the orders impugned in the earlier writ petition and therefore the writ petition filed nearly 11 years after the original order of punishment and 5 years after the order in revision cannot be entertained and the writ petition is dismissed. No costs.

26.07.2024

(shr)

Index : Yes/No

Speaking Order: Yes/No

Neutral Citation : Yes/No

To

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Inspector General of Police,
Gandhi Irwin Road, Egmore,
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WEB COPY



W.P.No.23815 of 2015

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W.P.No.23815 of 2015

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