



WEB COPY



W.P.No.5830 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.07.2024

CORAM

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No.5830 of 2022
W.M.P.No.5919 of 2022

D.Shahul

... Petitioner

Vs.

1.The Inspector General
Dy.Commandant General
Home Guards Department
D.G.P.Office Buildings
Chennai – 600 004.

2.The Commissioner of Police
Tirupur City
Athimara Thottam
Thirupulugupatti Post
Mummoorthi Nagar, Tirupur – 641 603.

3.The Deputy Commissioner of Police
Tirupur City
Athimara Thottam
Thirupulugupatti Post
Mummoorthi Nagar
Tirupur – 641 603.

4.The Zonal Commander
Tirupur City
Home Guard Department
Behind North Police Station
Kumaran Road
Tirupur – 641 601.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, quash the order of the 1st respondent Rc.No.A1-2046/DCD & HG/2021 dated 06.12.2021 dismissing the petitioner's appeal on the ground of limitation and direct the 1st respondent to consider and decide the appeal preferred by the petitioner vide representation dated 28.10.2021 against his dismissal from service on merits within a specific time frame.

For the petitioner : Mr.N.Srinivas Jayaprakash
For the respondents : Mr.V.P.R.Elamparithi
Additional Government Pleader

ORDER

This Writ Petition has been filed challenging the order passed by the 1st respondent dated 06.12.2021, thereby rejected the appeal preferred by the petitioner, on the ground of limitation.

2. Facts leading to filing of this Writ Petition are that the petitioner was initially appointed as Home Guard in the Tamil Nadu Police Department with effect from 24.05.2012. While so on 17.04.2020, the petitioner was served with a charge memo consisting of six charges. After completion of enquiry, the enquiry report was served on the petitioner and he was called upon to submit



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his explanation. Upon receipt of the explanation from the petitioner, being satisfied with the reasons, the respondents dropped three charges and again issued a charge memo on 07.01.2021 with three charges, which are mentioned in the previous charge memorandum. After completion of enquiry, on 23.06.2021, the petitioner was dismissed from service.

3. Aggrieved by the said dismissal order, the petitioner preferred an appeal before the 1st respondent with a delay of two days. Since the petitioner ought to have filed the appeal within a period of 30 days from the date of receipt of the original order, the respondents, on the ground of limitation rejected the same. Now, the petitioner is suffering with the order of dismissal from service and as such he may be given one more opportunity to put forth his case before the Appellate Authority.

4. The learned counsel for the petitioner would submit that the Appellate Authority has not at all considered any of the grounds raised in the appeal and it has been simply rejected by passing an one-line order.

5. The learned Additional Government Pleader appearing on behalf of the respondents would submit that there are ample evidences available as against



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the petitioner. Therefore, he would plead that the Writ Petition be dismissed.

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6. This Court is not going into any of the contentions raised by the learned counsel for the petitioner or the seriousness of the offences or otherwise of the charges or the conduct of the respondent – Department thus far.

7. In view of the above, the impugned order dated 06.12.2021 stands set aside and the matter stands remanded back to the 1st respondent for fresh consideration. The 1st respondent is directed to consider the appeal preferred by the petitioner and dispose of the same, after giving due opportunity to the petitioner, on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this order.

8. With the above directions, this Writ Petition stands disposed of. No costs. Consequently connected miscellaneous petition is closed.

04.07.2024

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Index : Yes/No

Internet : Yes/ No

Speaking order / Non speaking order

Neutral citation : Yes/No



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G.K.ILANTHIRAIYAN, J.,

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