



W.P.Nos.6649 of 2023 and etc., batch

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.03.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.Nos.6649, 6652, 6655, 7315, 7316, 7400, 8695 and 9667 of 2023
and W.M.P.No.9721 of 2023

W.P.No.6649 of 2023:-

R.Krishnakumar

... Petitioner

-Vs-

1. The Additional Director General of Police/
Director of Civil Defence and Addl. Cmt. General,
Home Guard,
Chennai.

2. The Superintendent of Police,
Tiruvallur District.

... Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the order of Removal from services issued vide District Order No. 574/2020 in Na.Ka.No.E2/293600/2020 dated 29.08.2020 issued by the Superintendent of Police, Tiruvallur District, the second respondent herein and to quash the same and to direct the Respondents 1 and 2 to reinstate the petitioner as Home Guard, at Tiruvallur District with all concomitant service and monetary benefits.



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In W.P.Nos.6649, 6652, 6655, 8695 and 9667 of 2023

For Petitioners : M/s S.S.Jhothivani

For Respondents : Mr.V.Veluchamy
Additional Government Pleader

In W.P.Nos.7315 and 7316 of 2023

For Petitioners : M/s S.S.Jhothivani

For Respondents : Mr.K.Tamilvendan

Government Advocate

In W.P.No.7400 of 2023

For Petitioner : M/s S.S.Jhothivani

For Respondents : Mrs.R.L.Karthika

Government Advocate

COMMON ORDER

These writ petitions have been filed challenging the order passed by the second respondent, thereby removed the petitioners from Home Guard service.

2. The issue involved in all the writ petitions are common.

Therefore, this Court is inclined to pass common order.



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3. Heard the learned counsel on either side and perused the materials available on record.

4. The petitioners were appointed as Home Guards by the second respondent. They were regularized to perform all the functions performed by the regular Police Constables and they were working as part and parcel of the Police Department. They were paid minimum remuneration and they were not given continuous work as in other States. Therefore, they were partly paid remuneration and in order to ventilate their grievances, a Welfare Association was formed in the name and style of Southern States Home Guards Welfare Association registered vide Register No.627/2019 having its headquarters at Telangana. Almost all the Home Guards who were working in Tamil Nadu become members in the welfare Association. Therefore, the petitioners submitted representations addressing their grievance. However, the said representations were not considered and the request made by the



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petitioners stood rejected. Their grievances were that they were not paid remuneration regularly and they were not given work on all days. Therefore, they were suffering for their livelihood. Thereafter, the petitioners were served with a show cause notice asking them to explain, so as to why they should not be removed from service since they became the members of Association and it is against the Police Forces (Restriction of Right) Act, 1966 and the police (Incitement to Disaffection) Act, 1933. On receipt of the explanation submitted by the petitioners, they were removed from service. Challenging that order, the petitioners are before this Court.

5. The learned counsel for the petitioners would submit that only because the petitioners addressed their grievances through the Association, they were removed from service. Though they were members of the Association, they were not in a key position of any posts. That apart, the Association has been registered at Telangana and no office bearers from Tamil Nadu have been functioning. She further submitted that as per the circular issued by the Government of India,



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Ministry of Home Affairs dated 26.04.1980 it is categorically stated that the Police force (Restriction of Right) Act, 1966 is not applicable to Home Guards and as regards recognition of Associations by the Home Guards the respective State Governments has to consider the request by following the Constitutional Right and to keep the voluntary character of the organization and nothing should adversely affect the roles assigned to Home Guards. Further, the said Association has been formed only for the purpose of welfare of the Home Guards registered at Telangana.

6. A perusal of the counter filed by the second respondent revealed that the Association called as Southern States Home Guards Welfare Association has not been approved to find its objectives in Tamil Nadu. Therefore, the Additional Director General of Police/Director of Civil Defence and Additional Commandant General, Home Guards, Chennai, issued instructions dated 09.11.2019 to all the District Officers/Commissioner's of Police that instructions may be issued to concerned authorities that no direct or indirect support/advice on formation of such Association be provided to anyone without permission



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of the Government of Tamil Nadu Home Department or clearance from the Directorate. As far as the petitioners are concerned, they are active members of the Association and they have been members of the said Association for the past several years. The Home Guards are presently utilized to perform various duties in assisting Police Personnel to enforce effective policing that are governed by the Tamil Nadu Home Guards Act, 1963 and Tamil Nadu Home Guards Rules, 1963. As per Section 16 of the Tamil Nadu Home Guards Act, 1963, a member of the Home Guard acting under this Act shall be deemed to be a public servant. That apart, Section 7(1) of the Tamil Nadu Home Guards Act, 1963, a member of the Home Guard when called out by an order under Section 6 shall have the same privileges and protection as an Officer of the Police appointed under the Madras City Police Act, 1988 and Tamil Nadu District Police Act, 1859. The remuneration or callout charges payable to Home Guards are revised from time to time by the Government. The callout charges is Rs.280/- for a callout of 4 hours and Rs.280/- for additional duty hours totalling Rs.560/- per day. The Home Guards are called out for duties only for few days in month. In fact, their service is



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voluntary force and as such, it is not a remunerative full time career. As per Section 6 of the Tamil Nadu Home Guards Act, 1963 and the cue is that the formation of association in any way by the members of Police force without the express sanction of the Government is banned and such an act is a punishable offence under “The Police Forces (Restrictions of Rights) Act, 1966 and the Police (Incitement to Disaffection) Act, 1922.

7. Therefore, this Court finds no infirmity or illegality in the orders passed by the second respondent and these writ petitions are devoid of merits and are liable to be dismissed.

8. Accordingly, these writ petitions are dismissed. Consequently, connected Miscellaneous petition is closed. There shall be no order as to costs.

18.03.2024

Internet: Yes
Index : Yes/No
Neutral Citation: Yes/No
Speaking/Non Speaking order
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G.K.ILANTHIRAIYAN. J,

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To

1. The Additional Director General of Police/
Director of Civil Defence and Addl. Cmt. General,
Home Guard,
Chennai.
2. The Superintendent of Police,
Tiruvallur District.

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