



WEB COPY

W.P.No.10691 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED : 03.09.2024**

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**THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH**

**W.P.No.10691 of 2021 and**  
**W.M.P.No.11321 of 2021**

D.Periyasamy

... Petitioner

Vs.

1.The Director General of Police,  
Chennai 6.

2.The Inspector General of Police,  
I/C DIG of Police,  
Harmed Police, Chennai.

3.The commandant,  
TSP VII Battalion,  
Pochamballi,  
Krishnagiri District.

... Respondents

**Prayer:** Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the third respondent proceedings made in E1/PR84/2017 dated 04.09.2017 and confirmed by the second respondent in Na.Ka.No.C1/18909/2017 dated 10.11.2017 and further confirmed by the first respondent in P.C.No.200341/AP.3(1)/2017 dated 27.06.2018 and quash the same and direct the respondents to reinstate the petitioner with all service and monetary benefits.

For Petitioner

: Mr.M.Muthappan



For Respondents : Mr.R.U.Dinesh Rajkumar, AGP

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**ORDER**

This Writ Petition has been filed for quashment of the proceedings of the third respondent in E1/PR84/2017 dated 04.09.2017, the second respondent in Na.Ka.No.C1/18909/2017 dated 10.11.2017 and the first respondent in P.C.No.200341/AP.3(1)/2017 dated 27.06.2018 and direct the respondents to reinstate the petitioner with all service and monetary benefits.

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

3.The petitioner is a habitual deserter and the number chart with regard to the desertion period of the petitioner is mentioned hereunder:

- (i) 28.05.2014 to 22.01.2015 - 240 days
- (ii) 21.02.2015 to 22.12.2015 – 305 days
- (iii) 08.03.2016 to 16.09.2016 – 193 days
- (iv) 05.12.2016 to 15.12.2016 – 11 days
- (v) 16.03.2017 to more than 60 days



4.The case of the petitioner herein is similar to that of the dispute which arose in the Civil Appeals in C.A.Nos.1763-1764 of 2022 (*the State of Karnataka and another Vs. Umesh*). In the said Civil Appeals, the Hon'ble Supreme Court has passed the following order:

*“17. In the exercise of judicial review, the Court does not act as an appellate forum over the findings of the disciplinary authority. The court does not re-appreciate the evidence on the basis of which the finding of misconduct has been arrived at in the course of a disciplinary enquiry. The Court in the exercise of judicial review must restrict its review to determine whether: (i) the rules of nature justice have been complied with; (ii) the finding of misconduct is based on some evidence; (iii) the statutory rules governing the conduct of the disciplinary enquiry have been observed; and (iv) whether the findings of the disciplinary authority suffer from perversity; and (v) the penalty is disproportionate to the proven misconduct. However, none of the above tests for attracting the interference of the High Court were attracted in the present case. The Karnataka Administrative Tribunal having exercised the power of judicial review found no reason to interfere with the award of punishment of compulsory retirement. The Division Bench of the High Court exceeded its jurisdiction under Article 226 and trenched upon a domain which falls within the disciplinary jurisdiction of the employer. The enquiry was conducted in accordance with the principles of nature of justice. The findings*



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*of the inquiry officer and the disciplinary authority are sustainable with reference to the evidence which was adduced during the enquiry. The acquittal of the respondent in the course of the criminal trial did not imagine upon the authority of the disciplinary authority or the finding of misconduct in the disciplinary proceeding.”*

5. The subject matter in issue is also similar to that of the Civil Appeals filed in C.A.Nos.1763-1764 of 2022, in which the aforesaid order has been passed.

6. In the light of the order passed by the Hon'ble Supreme Court in the Civil Appeals as stated supra, this Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

**03.09.2024**

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Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No

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**VIVEK KUMAR SINGH, J.**

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