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W.P.No.13352 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.06.2024

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THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.13352 of 2024
and W.M.P.Nos.14500 & 14501 of 2024

P.Velu

... Petitioner

Vs.

1.The State of Tamil Nadu
Rep.by its Secretary to Government
Home (Police-V) Department
Fort St.George
Chennai – 600 009.

2.The Director General of Police
Chennai.

3.The Joint Commissioner of Police
Chennai South Zone
Chennai – 600 008.

4.The Deputy Commissioner of Police
Theyagaraya Nagar District
Chennai Police
Chennai – 600 017.
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 calling for the records relating to impugned order passed by the 4th respondent order No.P.R.No.50/P.R(S)2/2011 dated 13.01.2012 and the consequential order passed by the 1st respondent in G.O.(D).No.658, Home (POLICE – V) Department dated 08.06.2023 and quash the same and consequently direct the respondents to reinstate the petitioner back into service with all service and monetary benefits arising thereof.

For the petitioner : Ms.N.Fidelia
For the respondents : Mr.C.Jayaprakash
Government Advocate

ORDER

This Writ Petition challenges the order dated 13.01.2012 and the order dated 08.06.2023.

2. By an order dated 13.01.2012, the petitioner was removed from service for desertion of service. After removal from service, the petitioner did not file an appeal within time, however, submitted a mercy petition only on 29.09.2020. It is now rejected by an order dated 08.06.2023.



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3. The learned counsel appearing on behalf of the petitioner would submit that the order of removal from service is grossly erroneous, in as much as the enquiry report itself was not served on the petitioner. When the punishment was imposed in violation of the fundamental rights of the petitioner, the same requires interference. Further, the mercy petition submitted by the petitioner ought to have been considered by the respondents. She would further submit that the charge is not serious in nature and on account of his personal circumstances, at the relevant point of time, the petitioner could not report for duty. Since the petitioner did not report for duty, the extreme punishment of removal from service has been imposed. However, an opportunity has to be given to the petitioner, so as to explain his situation to the respondents.

4. Per contra, the learned Government Advocate appearing on behalf of the respondents would submit that the punishment order was passed as early as in the year 2012. Even during the disciplinary proceedings, the



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petitioner deserted his duty. When the petitioner deserted his duty and completely absented from service and also did not take part in the proceedings, now belatedly, a mercy petition is submitted and the entire proceedings are sought to be revived.

5. I have considered the rival submissions made on either side and perused the material records of the case.

6. As rightly pointed out by the learned Government Advocate, it can be seen that the petitioner deserted service in the year 2012. While the proceedings were pending, he did not care to report for duty. Even after passing the impugned order of punishment, in the year 2012, the petitioner neither took any steps nor he filed any appeal in time. Belatedly in the year 2020, the petitioner again surfaced and submitted the mercy petition for reconsideration of his punishment. The petitioner, being employed as a police constable in a uniformed service, deserts his service and does not even care to participate in the disciplinary enquiry, now, after huge lapse of time,



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questions the disciplinary proceedings. The petitioner cannot be permitted to revive and stale the concluded issue. The mercy petition has rightly been rejected by the second impugned order dated 08.06.2023. Almost after a year, the present Writ Petition is filed. The punishment was imposed as early as in the year 2012. Therefore, considering the very huge delay and the conduct of the petitioner in deserting uniformed service, this Court is unable to come to the rescue of the petitioner and this Writ Petition is liable to be dismissed.

7. Accordingly, this Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

03.06.2024

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Neutral citation : No



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D.BHARATHA CHAKRAVARTHY, J.,

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To

- 1.The Secretary to Government
State of Tamil Nadu
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Chennai – 600 009.
- 2.The Director General of Police
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- 3.The Joint Commissioner of Police
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