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W.P.No.19581 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.09.2024

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THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

W.P.No.19581 of 2021

A.Mariyayi

... Petitioner

Vs.

- 1.The State of Tamil Nadu,
Rep by its Secretary to Government,
Home Department,
Fort St. George, Chennai 600 009.
- 2.The Director General of Police,
Dr.Radhakrishnan Salai,
Chennai 4.
- 3.The Deputy Inspector General of Police,
Armed Police, Chennai 10.
- 4.The Commandant,
TSP II Battalion, Avadi, Chennai 54.
- 5.The Assistant commandant,
TSP II Battalion, Avadi, Chennai 54.

... 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 entire records of the respondents 2 to 4 in connection with the impugned order passed by the 4th respondent in his proceeding PR.No.D2.09/2011 u/r 3(b) dated 25.10.2011, order passed by the 3rd respondent in his proceeding RC.No.C1/Appeal 09/2011 dated 05.01.2012 and order passed by the 2nd respondent in his



proceeding R.C.No.102608/AP 3(1)/2015 dated 28.06.2016 and quash the same and direct the respondents to reinstate the petitioner into service and grant her all consequential service and monetary benefits.

For Petitioner : No appearance

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

ORDER

Today, this matter has been listed under the caption 'for orders'. There is no representation for the petitioner either in person or through counsel.

2. This Writ Petition has been filed for quashment of the impugned order passed by the 4th respondent in his proceeding PR.No.D2.09/2011 u/r 3(b) dated 25.10.2011, the order passed by the 3rd respondent in his proceeding RC.No.C1/Appeal 09/2011 dated 05.01.2012 and the order passed by the 2nd respondent in his proceeding R.C.No.102608/AP 3(1)/2015 dated 28.06.2016 and to direct the respondents to reinstate the petitioner into service and grant her all consequential service and monetary benefits.

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



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4. The case of the petitioner is that the petitioner was appointed as Police Constable on 01.03.2009 and thereafter, she joined Tamil Nadu Special Police II battalion Avadi, Chennai on 05.08.2009. Based on the complaint given by one Ravichandran, who was the first husband of the petitioner, a case was registered by the respondent Police under Sections 494, 506(i) of IPC. The case was taken on file by the learned Judicial Magistrate, Musiri in C.C.No.44 of 2011. The learned Judicial Magistrate, Musiri, acquitted the petitioner from the criminal case on 20.01.2015. The petitioner had also filed a petition for divorce on the ground of cruelty against the said Ravichandran in O.P.No.185 of 2012 before the Additional Famil Court, Chennai and the same was allowed and decreed on 05.09.2013. On the basis of the complaint made by the said Ravichandran, the respondent Police had taken a disciplinary action against the petitioner and passed an order of removal from service by the 4th respondent in his proceeding D2/P.R.No.09/2011 dated 25.10.2011. Thereafter, the petitioner gave an explanation to the Commandant, TSP II, Avadi, Chennai and the same was not considered. Against the order of removal from service, the petitioner filed an appeal before the 3rd respondent and the same was rejected on 05.01.2012. Challenging the same, the petitioner had filed a Mercy Petition before the 2nd respondent and the same was also rejected on 28.06.2016. Hence, the



petitioner filed the present petition seeking to quash the order of removal from service.

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5.The learned Additional Government Pleader appearing for the respondents submitted that a detailed preliminary enquiry was conducted by the Assistant commandant III of the Tamil Nadu Special Police II Battalion based on the complaint of one Ravichandran, which revealed that the petitioner contracted marriage with the said Ravichandran and a male child was born to them on 06.11.2006. Without getting divorce from the said Ravichandran, the petitioner married one Balamurali on 01.02.2010. A fair oral enquiry was conducted by the Assistant Commandant I of the Tamil Nadu Special Police II Battalion and the Enquiry Officer has proved the charges against the petitioner based on 8 witnesses and 15 documents. But the petitioner neither cross examined any witness nor denied any count of charge but requested to give an opportunity to mend her way. Based on the findings of the Enquiry Officer, the 4th respondent has awarded the punishment of removal from service. Thereafter, she filed an appeal and the same was rejected and her mercy petition was also rejected by the Director General of Police, Chennai. Without exhausting the remedy available to the petitioner in submitting a memorial petition to the Government, the petitioner has filed the



present petition. In support of his contention, he relied on the judgment of the Hon'ble Supreme Court in the case of *the State of Karnataka and another Vs. Umesh* in C.A.Nos.1763-1764 of 2022. 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



WEB COPY

W.P.No.19581 of



the disciplinary jurisdiction of the employer. The enquiry was conducted in accordance with the principles of nature of justice. The findings 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.”

6. On perusal of the records, it reveals that without getting divorce from the first husband namely Ravichandran, the petitioner married one Balamurali on 01.02.2010 and thereafter, got divorce from the said Ravichandran on 05.09.2013.

7. In the light of the judgment passed by the Hon'ble Supreme Court in the Civil Appeals as stated supra and the submissions made by the learned Additional Government Pleader, this Court finds no merits in this petition and hence, the same is dismissed. No costs.

18.09.2024

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Index : Yes / No
Speaking order / Non-speaking order

WEB COPY

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VIVEK KUMAR SINGH, J.

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