



W.P.No.19687 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: .02.2024

CORAM:

THE HON'BLE Mrs.JUSTICE **V.BHAVANI SUBBAROYAN**

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C.Mathaiyan

... Petitioner

Vs.

1. The Secretary to Government,
Rep. By its Secretary,
Home Department,
Fort St. George, Chennai – 9

2. The Deputy Inspector of Police,
Salem Range, Salem.

3. The Superintendent of Police,
Dharmapuri,
Dharmapuri District

...Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India for an issuance of a Writ of Certiorarified Mandamus to call for the records of the respondents in connection with the impugned order passed by the 3rd respondent in Na.Ka.No.H.1/Ta.Pa.70/2013 dated 30.03.2016 and confirmed by the 2nd respondent in Na.Ka.No.P2/245/3299/2016 dated 10.08.2016 and quash the same and further direct the respondents to reinstate the petitioner into service with all service and monetary benefits.



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For Petitioner : Mr. T.Dharani

For Respondents : Dr.T.Seenivasan
Special Government Pleader

ORDER

The present Writ Petition has been filed for an issuance of a Writ of Certiorarified Mandamus to call for the records of the respondents in connection with the impugned order passed by the 3rd respondent in Na.Ka.No.H.1/Ta.Pa.70/2013 dated 30.03.2016, confirmed by the 2nd respondent in Na.Ka.No.P2/245/3299/2016 dated 10.08.2016 and quash the same and further direct the respondents to reinstate the petitioner into service with all service and monetary benefits.

2. The brief facts of the case is as follows:-

(i) The petitioner was appointed as Grade II Constable on 09.06.1993 and futher promoted as Grade I Constable from the year 2008 in Karimangalam Police Station and from 27.07.2012, the petitioner was allotted to Highway Patrol 52. While so, the petitioner was placed under suspension by an order dated 04.02.2013 by the 3rd respondent, on the ground that the charge memo, which was issued to the petitioner under 3(b) of Tamilnadu Police Subordinate Services Discipline and Appeal Rules 1955, on 27.05.2013, based on the complaint given by one Velan, stating



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that the petitioner had unauthorisedly quarreled with one Velan and attacked him was proved.

(iii) Further, the Deputy Superintendent of Police, Dharmapuri was appointed as enquiry officer and the said officer conducted the oral enquiry examined 5 witness on behalf of the prosecution and recorded their statements. The enquiry was conducted without even providing due opportunity of hearing the petitioner. Though the petitioner had proved his absence during the alleged occurrence, however, the enquiry officer relied upon false evidence of prosecution witnesses and came to a partial conclusion and held the charges proved without awaiting for the final disposal of the pending criminal case in Cr.No.50 of 2013. The 3rd respondent also imposed a punishment of dismissal from service without considering the points raised by the petitioner. As against the same, the petitioner has preferred an appeal dated 07.05.2016 to the 2nd respondent and the same was rejected by the 2nd respondent by proceedings dated 10.08.2016. Hence this petition.

2. The learned counsel for the petitioner would submit that the impugned proceedings are unsustainable in law and facts and the charges framed and punishment imposed against the petitioner are false, baseless and not connected to him. The respondents failed to consider the fact that



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the petitioner was not at all present during the group clash between both the parties, as such, the complaint made against the petitioner is false and the same is merely based on surmise and conjecture that the petitioner supporting the rival group, whereas, the fact remains that the petitioner never indulged in such activities, thereby pleaded to allow the present Writ Petition.

3. Per contra, the learned Special Government Pleader appearing for the respondents submitted that the impugned order has been passed by the respondents only after affording an opportunity. Further, the petitioner was working in Karimangalam Police Station and thereafter, deputed to Highway Patrol⁵² on OD basis, while so, the petitioner had proceeded to Matlampatti Village and attacked the complainant, which has been culminated into a complaint and FIR has been lodged and charge memo has been issued only based upon a thorough enquiry, which is perfectly valid, thereby pleaded to dismiss the petition.

4. Heard the learned counsel on either side and perused the documents placed on record.

5. On a perusal of the documents placed on record it reveals that



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while the petitioner was working in Karimangalam Police Station, he was deputed to High Way Patrol 52 on OD basis. While so, at 17.30 hrs, on 31.01.2013, a group clash had occurred. The petitioner proceeded to Matlampatti Village, for a diner and quarreled with the complainant, viz., Velan of Matlampatti Village and attacked him. Based on the complaint lodged by Velan, a case in Crime No.50 of 2013 was registered for offence under Sections 147, 148, 294(b), 323, 324, 307 IPC and Section 3 of TNPPDL Act and the petitioner was arrayed as A.4 and has also absconded and absented from duty without intimation.

6. It is relevant to note that while the petitioner was deputed for Highway Patrol 52 Mobile Duty on 31.01.2013, the writ petitioner obtained permission from mobile incharge, viz., Sub-Inspector of Police, and went for dinner to his native place, Matlampatti Village at that time, the petitioner joined hands with the mob and attacked the defacto complainant with iron rod, thereby resulting into complaint and a departmental action.

7. That apart, based on the request of the petitioner, the enquiry officer commenced the oral enquiry on 05.01.2014 and 21.01.2014. The enquiry officer, who conducted the oral enquiry had examined statements from five Pws and recorded their statements on behalf of the prosecution



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and verified six documents/ prosecution exhibits and concluded the charges levelled against the petitioner, therefore, it is clear that the enquiry officer has given ample opportunities to the petitioner during the oral enquiry, whereas, the writ petitioner had failed to produce any defense witnesses or defense exhibits on his favour to disprove the charge leveled against him. The contents in Exs.P.1 to P.6 have amply strengthened the prosecution and sound enough to substantiate the charge against the petitioner.

8. It cannot be forgotten that the petitioner, being a member of the disciplined force, should have maintained discipline and acted as an example for others. Further, it is also brought to the notice of this Court that the petitioner, during his service was dealt departmentally for 9 times due to his absence from duty and awarded punishment in each punishment roll.

9. Considering the fact that the petitioner, who obtained permission from his mobile incharge, proceeded for a dinner at his native place Matlampatti, where he joined with the group of people and attacked, P.W.5, i.e., Velan with iron rod and the fact that a criminal case has been registered and the petitioner has been arrayed as A.4 and coupled with the fact that though reasonable opportunity was given to the petitioner by sending summons dated 16.05.2014 and 12.06.2014, the petitioner failed to submit his further representations to disprove the categorical finding given



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of P.W.1 to P.W.5 and that the petitioner was absent from duty from 01.02.2013 to escape from arresting in criminal case and taking note of the previous antecedents of the petitioner, this Court is of the view that the order passed by the respondents does not require any interference in the hands of this Court.

In the result, the present Writ Petition is dismissed. No costs.

.02.2024

Index:Yes/No
Internet:Yes/No
Speaking / Nonspeaking order
ssd

To

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V.BHAVANI SUBBAROYAN J.

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