



WEB COPY



W.P.No.35685 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.01.2024

CORAM:

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

W.P.No.35685 of 2023 and  
WMP.No.35659 of 2023

K.Ayub Baig

... Petitioner

Vs.

- 1.The State of Tamilnadu,  
Rep. by Deputy Secretary of Home Department,  
Fort St.George Town, Chennai 600 003
- 2.The Director General of Police,  
Tamilnadu Fire & Service Headquarters,  
No.17, Rukmani Lakshmipathy Salai,  
Egmore, Chennai 600 008
- 3.The Deputy Director,  
Department of Fire & Rescue Services,  
17, Rukmani Lakshmipathi Road,  
Egmore, Chennai 600 008
- 4.The Divisional Officer,  
Southern Madras Division,  
Department of Fire & Rescue Services,  
Ashok Nagar,  
Chennai 600 083

... Respondents

**PRAYER:** Writ petition is filed under Article 226 of the Constitution of India to issue a writ of certiorarified mandamus calling for the records pertaining to the impugned order passed by the third respondent vide order Na.Ka.No.143/AA/ 2010 dated 23.07.2012 to the file of this Court and to quash the same and directing the respondents to consider the representation of



W.P.No.35685 of 2023

the petitioner dated 12.06.2023 and 24.07.2023 on humanitarian grounds.

WEB COPY

For Petitioner : M/s.G.S.Saranya Bai

For Respondents : Mr.U.Baranidharan,  
Additional Government Pleader

**ORDER**

This writ petition has been filed challenging the order passed by the third respondent dated 23.07.2012.

2. Heard, the learned counsel appearing on either side.

3. The case of the petitioner is that the petitioner had joined the Department of Fire and Rescue Services in the year 1999 as Fireman. While being so, he had pain in backbones and spinal cord. It was coupled with arthritis and it was attributed to weightlifting. Therefore, he had taken treatment in the hospital and he was advised to take rest for 30 days. However, he could not able to join duty after medical leave, for which an enquiry was conducted. During the enquiry, he explained everything before the enquiry officer. Even then, without considering the same, he was removed from service. According to the petitioner, the punishment imposed on the petitioner is disproportionate to the charge and unfortunately, the appellate authority also



W.P.No.35685 of 2023

without considering the same, confirmed the appeal and removed the petitioner from service.

4. On perusal of records revealed that the petitioner was served with charge memo alleging that the petitioner availed medical leave from 20.07.2006 to 18.08.2006 for thirty days. After completion of medical leave, he failed to join duty for 21 days. In order to substantiate the said unauthorised absence, the petitioner failed to submit any medical record and leave letter. Enquiry officer held that the charge was proved against the petitioner. The petitioner submitted detailed explanation and the fourth respondent being the disciplinary authority, passed final order thereby imposed punishment of removal from service. Aggrieved by the same, the petitioner filed appeal and the same was also dismissed and confirmed the order of penalty by the third respondent by order dated 23.07.2012. After period of 12 years, the petitioner has now filed this writ petition challenging the order passed by the appellate authority, that too without challenging the original order passed by the fourth respondent dated 04.05.2007. Even before filing this writ petition, the petitioner submitted meritorious petition before the Chief Minister Cell which was forwarded to the second respondent. In turn, by the communication dated



W.P.No.35685 of 2023

06.06.2016, it was informed to the petitioner that already the appeal filed by the petitioner was dismissed and confirmed the order passed by the fourth respondent. The said communication was challenged by the petitioner before this Court in WP.No.27390 of 2023. It was dismissed as withdrawn with liberty to challenge the final order passed by the fourth respondent and the order passed by the third respondent.

5. In fact, the petitioner filed this writ petition challenging the order passed by the appellate authority without challenging the order passed by the original disciplinary authority i.e. the fourth respondent herein. Though there is no limitation for filing a writ petition, the same has to be filed within a reasonable time. The appellate authority dismissed the appeal as early as on 23.07.2012. It was duly communicated to the petitioner. Even after having knowledge about the order passed by the appellate authority dated 23.07.2012, the petitioner failed to challenge the same in the manner known to law. Instead of challenging the said order, he simply submitted meritorious petition before the Chief Minister Cell and the same was forwarded to the file of the second respondent. It was duly informed to the petitioner about the order passed by the appellate authority. Even then, the petitioner failed to challenge the order



W.P.No.35685 of 2023

passed by the fourth respondent and the appellate authority i.e. the third respondent herein. Therefore, the writ petition cannot be maintained on the ground of laches. That apart, on merits also, this Court feels that punishment imposed on the petitioner cannot be said to be disproportionate. Hence, this writ petition is devoid of merits and liable to be dismissed.

6. Accordingly, this writ petition is dismissed. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

03.01.2024

Index : Yes/No

Internet : Yes/No

Speaking order/non-speaking order  
lok



W.P.No.35685 of 2023

**G.K.ILANTHIRAIYAN, J.**

lok

To

1. Deputy Secretary of Home Department,  
The State of Tamilnadu,  
Fort St. George Town, Chennai 600 003
2. The Director General of Police,  
Tamilnadu Fire & Service Headquarters,  
No.17, Rukmani Lakshmipathy Salai,  
Egmore, Chennai 600 008
3. The Deputy Director,  
Department of Fire & Rescue Services,  
17, Rukmani Lakshmipathi Road,  
Egmore, Chennai 600 008
4. The Divisional Officer,  
Southern Madras Division,  
Department of Fire & Rescue Services,  
Ashok Nagar,  
Chennai 600 083

W.P.No.35685 of 2023

03.01.2024