



W.A(MD) No.1463 of 2018

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 10.09.2024**

**CORAM:**

**THE HONOURABLE MR.JUSTICE C.V. KARTHIKEYAN  
and  
THE HONOURABLE MR.JUSTICE J.SATHYA NARAYANA PRASAD**

**W.A.(MD) No.1463 of 2018**

M.Dharmaraja

... Appellant/  
Petitioner

-VS-

1.Principal Secretary to Government  
Home (Police VI) Department,  
Secretariat, Chennai.

2.Director General of Police,  
Chennai – 600 004.

3.Superintendent of Police,  
Sivagangai District.

... Respondents/Respondents

**Prayer:** Writ Appeals filed under Clause 15 of Letters Patent, to set aside the order passed in W.P. (MD) No.14710 of 2015 dated 04.06.2018.

For Appellants : M.Dharmaraja (Party-in-person)

For Respondents : Mr.M.Senthil Ayyanar  
Government Advocate



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## **JUDGMENT**

The writ petitioner in W.P.(MD) No.14710 of 2015 aggrieved by the learned Single Judge order dated 04.06.2018, by which order, the writ petition had been dismissed, had filed the present writ appeal.

2. Both during the hearing of the writ petition before the learned Single Judge and before us, the writ petitioner/writ appellant appeared as party-in-person.

3. As a matter of fact, he had also addressed a letter to the Hon'ble Chief Justice complaining that the writ appeal was not taken up for consideration. He was however not present in the previous hearing date. We had therefore directed the Registry to issue notice to all the known addresses of the appellant. Finally, he has appeared before this Court today as party-in-person.

4. We also place on record that the Court had engaged in



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discussion in the language known to him, namely, Tamil and had explained in detail about all aspects of his case, the scope of the writ appeal and also the nature of the order we proposed to pass.

5. The facts in brief are that, the appellant herein had joined in Police Department as Constable on 25.09.1988. His service was confirmed in July, 1990.

5.1. Thereafter, he was implicated as an accused in FIR in Crime No.178 of 1994 registered by the Sivagangai Town Police Station for offence punishable under Section 332 IPC. The complaint was given by one Tamilarasan, who was also working in the same Department. However, by judgment in C.C.No.65 of 1997, dated 07.10.2003 on the file of the Judicial Magistrate No.1, Sivagangai, the appellant was acquitted of all charges.

5.2. In the meanwhile, owing to the pendency of the criminal case, the appellant was suspended from service on 02.05.1994. The respondents considered him as a deserter and alleged that he had deserted service between the period 25.11.1994 and 30.03.1996 and on that



ground, had also parallelly initiated departmental proceedings.

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5.3. In the departmental proceedings though notice according to the respondents was served on the appellant, it is the case of the appellant that he was not served with proper notice. He had therefore, not participated in the departmental proceedings. Finally, the charge of desertion was held to be proved and he was dismissed from service on 30.03.1996.

5.4. The writ petition had been filed to quash an order dated 27.11.2012 passed by the Principal Secretary to Government, Home (Police VI) Department, Secretariat, Chennai, confirming an earlier order of dismissal from service. The writ petitioner sought reinstatement back into service with full wages on and from 02.05.1994, the date on which he had been placed under suspension.

5.5. The grievance of the appellant is that he had not committed any wrong, that those who committed wrong were promoted to various higher posts and that he had not been served with any notice in the departmental proceedings and that, if all the departmental



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proceedings are to be once again put in motion, he must be given legal assistance, namely, that an advocate should be permitted to accompany and assist him and in view of this extreme suspicion over the bonafide nature of the proceedings, the said proceedings must also be recorded, preferably video recorded. He also stated that necessary protection must be given to him since he had raised allegations against various police officials in the Police Department and that there is a threat to his life.

6. A perusal of the order of the learned Single Judge is quite revealing. In paragraph 8, the learned Single had observed as follows:-

*“8.It is relevant to mention here that the petitioner was not dismissed after holding the charges framed against him in P.R.No. 121 of 1994 were proved. In fact, the said disciplinary action was put on hold till the conclusion of the criminal case. The reason for dismissing the petitioner from service was because he had deserted the Headquarters on 25.11.1994. After issuing an order declaring the petitioner as a deserter, P.R.No.93 of 1995 was issued against the petitioner. The petitioner ought to have appeared for enquiry and contested the charge of desertion.”*



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7. It is thus seen that the charge as such was strictly not proved but, since the appellant was deemed to have deserted from service, he had been dismissed from service.

8. We hold that the order of dismissal from service is extremely disproportionate to the nature of allegation raised against the appellant herein. The charge of desertion had not been proved during the course of departmental inquiry. The appellant had not actually participated in the departmental inquiry. The fact that he was absent on duty was duly taken note and he was straight away dismissed from service. This order had been confirmed on appeal by the first respondent.

9. We are also informed that in accordance with the directions of the learned Single Judge, the respondents had paid the subsistence allowance and in this regard, the learned Government Advocate had also produced an extract, which reads as follows:-



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| <i>Details of monetary benefits eligible and sanctioned to the appellant as per order passed by this Hon'ble High Court in W.P.(MD) No.14710 of 2015 dated 04.06.2018</i> |                                                  |                                                                                                                                                                                                                                                                                             |                    |                                               |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|-----------------------------------------------|
| <i>Sl.No.</i>                                                                                                                                                             | <i>Name of benefit</i>                           | <i>For period</i>                                                                                                                                                                                                                                                                           | <i>Amount paid</i> | <i>Mode of payment</i>                        |
| 1.                                                                                                                                                                        | <i>Subsistence allowance</i>                     | <i>02.05.1994 to 31.05.1994</i>                                                                                                                                                                                                                                                             | <i>Rs.1,210</i>    | <i>Cash</i>                                   |
| 2.                                                                                                                                                                        | <i>Subsistence allowance</i>                     | <i>01.06.1994 to 30.06.1994</i>                                                                                                                                                                                                                                                             | <i>Rs.1,250</i>    | <i>Cash</i>                                   |
| 3.                                                                                                                                                                        | <i>Subsistence allowance (Suspension Period)</i> | <i>01.07.1994 to 13.03.1996</i>                                                                                                                                                                                                                                                             | <i>Rs.10,558</i>   | <i>Through ECS (S.Bill No. 596/2018-2019)</i> |
| 4.                                                                                                                                                                        | <i>SPF (Subscription)</i>                        | <i>25.05.1988 to 13.03.1996</i>                                                                                                                                                                                                                                                             | <i>Rs.1,920</i>    | <i>Through ECS (M.Bill No. 412/2018-2019)</i> |
| 5.                                                                                                                                                                        | <i>SPF (Interest)</i>                            | <i>25.05.1988 to 13.03.1996</i>                                                                                                                                                                                                                                                             | <i>Rs.1,334</i>    | <i>Through ECS (M.Bill No. 413/2018-2019)</i> |
| 6.                                                                                                                                                                        | <i>GPF</i>                                       | <i>Memorandum has been sent on 02.08.2018, 05.04.2022 and 14.08.2024 to submit petition along with GPF final closure form and GPF account slip copy in order to send it to Accountant General Office, Chennai for sanction order.<br/>Not yet received any petition from the appellant.</i> |                    |                                               |

10. We therefore, by taking into consideration the fact that



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the appellant claims that he had not been served with proper notice and and since, the order had been passed in violation of principles of natural justice without granting any opportunity and also after enquiring with the learned Government Advocate about the availability of the records and that, on instructions, it is informed that the records are also available and that the respondents are prepared to proceed further with the departmental proceedings against the appellant, issue the following directions:-

(i) The order of the learned Single Judge confirming the order of dismissal from service is set aside;

(ii) We direct the respondents to once again continue with the initiation of departmental proceedings by issuing fresh notice to the appellant herein to the following address:-

“1/27, Marathi Amman Koil Street,  
Meenakshi Puram,  
Mangulam Post,  
Alagarkovil via,  
Madurai District – 625 301.



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Cell No.99949 88657”

(iii) The departmental proceedings must be conducted by giving opportunity to the appellant to have the assistance of any legal practitioner;

(iv) It would be in the interest of the respondents that the departmental proceedings are conducted in a transparent manner and they also record the entire proceedings so that there cannot be any counter allegations as against the respondents made by the appellant;

(v) From the date on which the appellant actually appears from inquiry, within a period of three months, the inquiry proceedings must be completed provided the appellant also cooperates, keeping in mind that the appellant had crossed the age of superannuation.

The respondents may pass further consequential orders on conclusion of



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the departmental proceedings.

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11. With the above directions, the writ appeal is allowed. No costs.

[C.V.K., J.] [J.S.N.P., J.]  
10.09.2024

Index: Yes/No  
Speaking/Non-speaking order  
Neutral citation: Yes/No  
PKN

To

1. Principal Secretary to Government  
Home (Police VI) Department,  
Secretariat, Chennai.
2. Director General of Police,  
Chennai – 600 004.
3. Superintendent of Police,  
Sivagangai District.



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**and**  
**J.SATHYA NARAYANA PRASAD, J.**

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