



W.P.(MD)No.5529 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.04.2024

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD)No.5529 of 2024

P.Kathiravan

... Petitioner

vs.

1.The State of Tamil Nadu,
Rep. by its Principal Secretary,
Home (Prison VI) Department,
Fort St.George, Secretariat,
Chennai - 600 009.

2.The Director General of Police,
O/o.The Director General of Police,
Dr.Radhakrishnan Salai, Mylapore,
Chennai.

3.The Commissioner of Police,
O/o.The Commissioner of Police,
Madurai City.

4.The Deputy Commissioner of Police (Law and Order),
O/o.The Deputy Commissioner of Police,
Madurai City.

5.The Inspector of Police,
Thirunagar Police Station,
Madurai City.

... 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 pertaining to the impugned order in C.No.D1(1)/PR.No.62/2016 dated 07.04.2018 passed by the third respondent and quash the same as illegal and subsequently direct the first respondent to reinstate the petitioner in service with all service and monetary benefits forthwith.

For Petitioner : Mr.S.M.A.Jinnah
For Respondents : Mr.M.Siddharthan,
Additional Government Pleader

ORDER

Heard Mr.S.M.A.Jinnah, learned counsel for the petitioner and Mr.M.Siddharthan, learned Additional Government Pleader for the respondents.

2. This writ petition has been filed seeking for writ of certiorarified mandamus to call for the records in C.No.D1(1)/PR.No. 62/2016 dated 07.04.2018 passed by the third respondent and quash the same and subsequently direct the first respondent to reinstate the petitioner in service with all service and monetary benefits.



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3. The petitioner was working as a constable during the year 2002 - 2014. While so, in the year 2014, he was suspended on the allegation that he was involved in a criminal case. Subsequently, the petitioner was given with a charge sheet and disciplinary action has been initiated against him. On conclusion of enquiry, the charges against the petitioner were proved and he was given with a punishment of removal from service. The petitioner has challenged the said order by preferring an appeal before the first respondent and the same has been dismissed. Challenging the same, the petitioner has filed this writ petition.

4. Mr.S.M.A.Jinnah, learned counsel for the petitioner submitted that without getting previous sanction, criminal proceedings shall not be initiated; the punishment imposed by the alleged lapses are disproportionate; the nature of the abusive language used by the petitioner has not been stated anywhere; the petitioner has rendered unblemished service for nine years and the said fact was not considered by imposing a capital punishment; and the criminal case against the petitioner about which, the charge has been given is still pending and prior to that, the



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petitioner has been removed from service.

5. Mr.M.Siddharthan, learned Additional Government Pleader submitted that the petitioner has filed a review petition before the Government and the same is pending.

6. On perusal of the charge memo, it is seen that the petitioner has been given with two charges, one in respect of his intemperate manners in which he behaved with his superiors, another is his involvement in a criminal case. The position of law as to the standard of proof required for the disciplinary proceedings and the criminal proceedings are not the same. The standard of proof required for criminal case is beyond reasonable doubt. However, for disciplinary proceedings, it is based on preponderance of probabilities. So, in all cases, it is not necessary for the disciplinary authorities to wait to initiate departmental action until the criminal proceedings get completed.



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7. The petitioner has preferred an appeal and the same has also been dismissed. In fact, in the submission given by the petitioner, the petitioner has stated that he was disturbed as he had fallen from the vehicle and so he had spoken something which he was not aware. Since the petitioner has filed a review before the Government and the same is pending for consideration, the petitioner can workout his remedy there and if he is still aggrieved due to the order passed in the review, he can challenge the same subsequently, if so advised.

8. With these observations, writ petition is disposed of. No costs.

01.04.2024

NCC: Yes/No

Index : Yes/No

Speaking/Non-Speaking order

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R.N.MANJULA, J.

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