



WP(MD) No.21956 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **18.07.2024**

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD) No.21956 of 2023

and

W.M.P.(MD)Nos.18309 of 2023 & 24923 of 2023

S.Veeragandhi

... Petitioner

Vs.

1.The Additional Director General of Police (Law and Order),
O/o. Director General of Police of Tamil Nadu,
Chennai – 600 004.

2.The Deputy Inspector General of Police,
Dindigul Range, Dindigul.

3.The Superintendent of Police,
Dindigul District, Dindigul.

4.The Director General of Police,
Post Box No.601,
Dr.Radhakrishnan Salai,
Mylapore, Chennai-600 004.

... Respondents

(R4 is suo motu impleaded vide order of this Court dated 18.07.2024.)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the



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records relating to the impugned Punishment order in Range Office PR No.02/2022 (PR No.08/2022 u/s.3(b) of Dindigul District) dated 07.02.2023 passed by the 2nd respondent and Proc.Rc.No. 4369431/AP.II(3)/2023 dated 17.04.2023 passed by the 1st respondent and quash the same and consequently direct the respondents to grant all the service and monetary benefits from the date of suspension i.e. 28.10.2021 and permit the petitioner to retire from service on superannuation on 31.05.2024 A.N and disburse the pensionary benefits within a time limit to be fixed by this Court.

For Petitioner : Mr.A.Thirumoorthy

For Respondents : Mr.J.Ashok

Additional Government Pleader

ORDER

The petitioner, who was working as Inspector of Police has been removed from service vide impugned order of the respondents. The petitioner challenged the order of punishment dated 07.02.2023 passed by the second respondent before the first respondent and the order of the first respondent dated 17.04.2023 was passed in the appeal preferred by the petitioner by confirming the order of the second respondent. Challenging these orders, this writ petition has been filed.



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2. Heard the learned counsel on either side.

3. The petitioner has been charged for the offence of harassing a woman constable by exchanging messages through his cellphone and an Internal Complaints Committee had enquired the complaint given by the complainant, who is the woman constable and had given a finding about the prima facie genuineness of the complaint. In this regard, a criminal case has also been filed against the petitioner in Crime No.31 of 2021 under Section 354 A, 354 D and 509 of IPC read with Section 67A of the Information Technology (Amendment) Act, 2008 and Section 4 of the Tamilnadu Prohibition of harassment of Women Act, 2002. The investigation in this case has been completed and charge sheet has also been filed in C.C. No. 1019 of 2022 before the Additional Mahila Court, Dindigul. On the other side, the disciplinary proceedings has also been initiated against the petitioner, wherein charges have been proved and the punishment of removal from service was imposed upon the petitioner by the second respondent through the impugned order, which was also confirmed by the first respondent in the appeal preferred by the petitioner. Hence, the petitioner has filed this writ petition.



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4. The learned counsel appearing for the petitioner submitted that the messages are not with sexual colour and it was just friendly message, which was exaggerated as sexual harassment. He further submitted that the petitioner's past service record was not considered before passing the capital punishment.

5. The petitioner was an Inspector of Police at the time when he was exchanging messages to his subordinate, a woman constable. It appears from the messages exchanged to the complainant, who is the woman constable that he was constantly nagging her without thinking whether she was comfortable enough to fetch conversation with him. The messages appear to be supplying unsolicited care and affection. This conduct on the part of the petitioner no doubt would embarrass a woman employee, though the messages did not have any filthy or lusty words. The Internal Complaints Committee has rightly given a report that the prima facie materials are there for sexual harassment and subsequently the charges against the petitioner were also framed in the disciplinary proceedings.



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6. When the complainant, who is the woman constable did not relish the messages so sent by the petitioner, the petitioner exhibited reverse action of irritation and scolded her in front of other police officers. They were also examined as witnesses and they have stated about the incidents that had happened to the woman constable in an inappropriate manner.

7. Even though the petitioner had apologized the complainant, he continued to send flattering messages. In a disciplined force, like police force, if such kind of action is taken place, then the woman police will lose confidence. The first respondent and the second respondent have taken a serious note that the charges have been proved against the petitioner and had passed the capital punishment of removal from service.

8. Even if the petitioner's past records are good and his harassment to a woman employee is said to be for the first time, that cannot be mellow down the unbecoming conduct of the petitioner.



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9. Admittedly, the petitioner has joined as Grade II Constable on 27.05.1988 and he was promoted to the post of Sub-Inspector of Police on 16.04.1999 through direct recruitment under 20% in-service reservation and thereafter, he got promoted to the post of Inspector on 16.07.2010 and he was due to retire on 31.05.2024. Prior to that date, the petitioner was removed from service, in view of the allegations made against him.

10. Having got appointed as a Grade II Police Constable in the year 1988 and got selected under the direct recruitment to the post of Sub-Inspector of Police due to his hard work and thereafter raised to the Head Inspector of Police on 16.07.2010, the petitioner did not value his own hard work and invited trouble to himself at a later stage of his career. No doubt, the charges proved against the petitioner are serious in nature. However, by taking into consideration of his unblemished long past services and his investment of several years' hard work to raise from Grade II Police Constable to Inspector of Police, I feel some mercy be shown upon the petitioner by reducing the punishment of removal of



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service to some other punishment, which would not atleast guarantee his terminal benefits.

11. At this juncture, I feel it is appropriate to *suo-motu* implead the Director General of Police, Post Box No.601, Dr.Radhakrishnan Salai, Mylapore, Chennai-600 004, as the fourth respondent. In the light of the discussion made above, the petitioner is at liberty to file a mercy petition before the the fourth respondent, within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same, the fourth respondent shall consider and pass orders in the light of the above observations made, within a period of four weeks thereafter.

12. With the above directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

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Index : Yes / No
Internet : Yes / No
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R.N.MANJULA, J.

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To

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Dindigul.
- 4.The Director General of Police,
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Mylapore, Chennai-600 004.

Order made in
W.P.(MD)No.21956 of 2023

18.07.2024