



W.P(MD).No.25673 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 22.02.2024

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.25673 of 2022

and

W.M.P(MD)Nos.19779 of 2022 & 10801 of 2023

G.Abdul Khadar Ibrahim

...Petitioner

Vs

1.The State of Tamil Nadu,
Represented by its Home Secretary,
Home (Police-6) Department,
Secretariat, Chennai-9.

2.The Director General of Police,
Tamil Nadu, Chennai-4.

3.The Commissioner of Police,
Madurai City, Madurai District.

4.The Deputy Commissioner of Police,
Armed Reserve,
Madurai City, Madurai District.

...Respondents

Prayer: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned punishment order of Removal from Service passed by the 4th respondent in his proceedings in C.No.D2(1)/PR.No.78/2021, dated 12.01.2022 and consequential impugned order confirming by the 3rd respondent in his proceedings in C.No.D2(1)/PR.No.78/2021, dated



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17.03.2022 and consequential impugned order confirming by the 2nd respondent in his proceedings in Rc.No.2110199-1/AP II(3)/2022, dated 24.06.2022 and quash the same as illegal and consequentially to direct the respondents to reinstate the petitioner as police Constable Grade-I with continuity of service and all attendant monetary benefits within the period that may be stipulated by this Court.

For Petitioner : Mr.C.Venkatesh Kumar

For Respondents :Mr.J.K.Jayaselan
Government Advocate

ORDER

The present writ petition has been filed to call for the records relating to the impugned punishment order of Removal from Service passed by the 4th respondent in his proceedings in C.No.D2(1)/PR.No.78/2021, dated 12.01.2022 and consequential impugned order confirming by the 3rd respondent in his proceedings in C.No.D2(1)/PR.No.78/2021, dated 17.03.2022 and consequential impugned order confirming by the 2nd respondent in his proceedings in Rc.No.2110199-1/AP II(3)/2022, dated 24.06.2022 and quash the same as illegal and consequentially to direct the respondents to reinstate the petitioner as police Constable Grade-I with continuity of service and all attendant monetary benefits within the period that may be stipulated by this Court.



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2. The petitioner was appointed as Grade-II Police Constable on 14.03.2009 and was sent for training thereafter. After completion of basic training, he was posted to the Tamil Nadu Special Police XV Battalion, Sundrampalli and he joined duty on 05.08.2009 forenoon. Further, he was posted to Tamil Nadu Special Police VI Battalion, Madurai on 06.10.2010 afternoon. While he was served in the Armed Reserve, Virudhunagar District, he was upgraded as Grade-I Police Constable on 01.04.2019. He was visited with charge memo for 2 counts of charges, for which detailed disciplinary proceeding was conducted and he was removed from service on 12.01.2022 vide impugned proceedings of the 4th respondent, dated 12.01.2022 and consequential impugned order confirming the order, dated 12.01.2022 passed by the 2nd respondent dated 24.06.2022 was also issued. Challenging the same, this writ petition came to be filed.

3. The learned counsel for the petitioner submitted that 2 count of charges came to be framed as against the petitioner and the first charge is that he had entered the premises of the Inspector of Police, Armed Reserve, Madurai City on 25.06.2021 without wearing face mask and indulged in an argument with the Inspector of Police demanding compensatory casual leave. Further, he threatened the Inspector of Police that he is an ineligible Inspector of Police and the said activity is a cross violation of Police Standing Orders



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110 (12) and Tamil Nadu Police Subordinate Police Officers Conduct Rules, 1964 under rule 24 (1) and 24 (2). The second count of charge is that the petitioner had uploaded a video message (you tube) and he requested for compensatory leave lieu of Government holidays for which he had worked, for which the Inspector of Police, Armed Reserve, Madurai City had disparaged him and the video had very offending impact among the other police. The said video was also aired by Sun TV News channel on 26.06.2021 and the same was a cross violation of Tamil Nadu Police Subordinate Police Officers Conduct Rules, 1964 under rule 15 and 19. For these 2 count of charges, disciplinary enquiry was conducted, for which an Enquiry Officer was appointed and the petitioner duly submitted his explanation and without considering his explanation, the Enquiry Officer proceeded to conclude that the charges framed as against him as proved, on the basis of which, the impugned order came to be passed. However, the order of removal from service is disproportionate and in view of the same, he sought for interference with the impugned proceedings and allowing the writ petition.

4. The 3rd respondent has filed a counter affidavit and the learned Government Advocate submitted that this is not the first instance of disciplinary proceeding as against the petitioner . At least, on 3 occasions, he was subjected to disciplinary proceeding for various irregularities committed



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by him and he also accorded with appropriate punishment and this is for the 4th time he has been visited with a charge memo, wherein after detailed disciplinary proceeding, he has been found guilty and the punishment of removal from service has been implemented. On that basis, he sought for dismissal of the writ petition.

5. Heard the learned counsels on either side and perused the materials available on record.

6. Having considered the submission of the learned Government Advocate, I carefully went through the delinquency, for which the petitioner was inflicted with punishment in the previous 3 occasions. All the 3 past occasions, was as to the delinquency of absenting from duty for few days. The first charge was specifically with respect to absenting from Armed Reserve Guard duty on 11.10.2015 and 13.10.2015, for which he was imposed with a punishment of postponement of increment for a period of 3 years with cumulative effect. However, the same was modified in the appeal as black mark by the Deputy Inspector General of Police, Madurai range. The second delinquency is that he has availed medical leave from 10.12.2018 to 30.12.2018 on his own accord without following the procedures violating the Police Standing Orders and reported duty after few days on 31.12.2018 with



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beard which against the Madras Police Gazette dated 05.02.1957, for which the petitioner was imposed with a punishment of postponement of increment for a period of 3 years with cumulative effect. The same was also modified as postponement of increment for a period of 2 years without cumulative effect. As far as the 3rd disciplinary proceeding is concerned, that was also a case of absenting duty, for which appropriate punishment has been imposed and a related writ petition is pending before this Court.

7. It was brought to the notice of this Court by the learned counsel for the petitioner that similar case of uploading videos in social media has been dealt with likely by the department and no disciplinary proceedings were initiated against the said delinquents. However, the petitioner has been treated indifferently by inflicting the maximum possible punishment on him. The other count of charge with respect to indulging in inappropriate arguments and calling the Inspector of Police by names would obviously attract disciplinary proceeding, since the petitioner is an employee of the Armed Reserve, where utmost discipline and integrity is expected from the employees. However, the punishment of removal from service is shockingly disproportionate.



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8. Considering the young age of the petitioner, this Court hereby quash the impugned order of removal from service as shockingly disproportionate and remand back the same to the 4th respondent with a specific direction to pass lesser punishment other than removal from service and compulsory retirement.

9. With the above said observations, this Writ Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

22.02.2024.

Internet : Yes

Index : Yes/No

NCC : Yes/No

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To

- 1.The Home Secretary,
Home (Police-6) Department,
Secretariat, Chennai-9.
- 2.The Director General of Police,
Tamil Nadu, Chennai-4.
- 3.The Commissioner of Police,
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L.VICTORIA GOWRI, J.

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