



W.P.No.6273 of 2013

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.08.2025

CORAM:

**THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR**

**W.P.No.6273 of 2013**

D.Kuppayee

... Petitioner

Vs.

1.The Superintendent,  
Central Jail, Salem.

2.The Superintendent,  
Sub-Jail, Omalur.

3.Sankar,  
Superintendent,  
Sub-Jail, Omalur.

... Respondents

**Prayer :** Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order made in 14269/Ki.Se.1/2012 dated 28.11.2012 of the first respondent, to quash the same and consequently direct the respondents to reinstate the petitioner with all benefits, both

Page 1 of 9



W.P.No.6273 of 2013

WEB COPY service and monetary and thereafter adhere to the Rules and Regulations as contemplated.

For Petitioner : Mr.L.Chandrakumar

For Respondents : Mr.V.Nanmaran

Additional Government Pleader

### **ORDER**

This writ petition has been filed aggrieved by proceedings No. 14269/Ki.Se.1/2012 dated 28.11.2012 whereby the name of the petitioner was struck off from the Rolls on the ground of continued absence without permission from 06.11.2012 to 26.11.2012 i.e. for a period of 21 days purportedly in exercise of the power under Rule 128(1) Part-II of Tamil Nadu Prisons Procedure Manual. This Court while entertaining the writ petition has passed an interim stay on 14.03.2013. In the light of the said interim order, the petitioner was again reinstated into the service on 26.03.2013 and thereafter on attaining the age of superannuation retired from service on 30.06.2023 and her terminal benefits were also settled. However, the interregnum period i.e. from 06.11.2012 till 25.03.2013 has



W.P.No.6273 of 2013

WEB COPY

not been regularized and therefore, the petitioner was paid the pay which she was drawing as on 06.11.2012 till the date of her superannuation.

2. The facts of the case are that the petitioner who was working as Sanitary Worker in Omalur Branch Division, absented herself from 06.11.2012 to 26.11.2012 purportedly on certain medical grounds. According to the petitioner, she submitted necessary leave application along with doctor certificate etc. But the third respondent herein, who was holding the post of Superintendent of Sub Jail, Omalur, at relevant point of time who has allegedly got serious prejudice against the petitioner, having suppressed the leave application based on medical certificate etc. submitted by the petitioner, submitted a report to the first respondent stating that the petitioner is absent without submitting the leave application or sanction of leave etc. It is basing upon the said proposal submitted by the second respondent herein dated 27.11.2012, the impugned order came to be passed by the first respondent striking off the name of the petitioner from the Rolls.



W.P.No.6273 of 2013

WEB COPY

2.1. Though third respondent was impleaded in personal capacity and served with notice, no counter affidavit has been filed on behalf of the third respondent denying the malafides that are alleged against him. Thus the malafides as alleged against the third respondent remained unrebutted.

2.2. Be that as it may be, the impugned proceedings dated 28.11.2012 came to be issued in purported exercise of power under Rule 128 (1) of Tamil Nadu Prisons Rules, 1983. No doubt in case of absence without leave for 21 days, it is an act of the offence of desertion, after which the name of the officer concerned invariably struck off from the date of absence in terms of the said Rule. Sub Rule 3 of 128 also provides for submission of an application for reinstatement within two months from the date of striking off and then provides for consideration of the said application. No doubt Rule 128 as such does not provide for any detailed enquiry to be conducted before passing an order striking off the name of the officer. But here is a case, where the petitioner herein is a



W.P.No.6273 of 2013

WEB COPY regular employee of the jail service and whether her services can be put to an end by simply striking off her name from the Rolls without complying with the requirement of Article 311 of Constitution of India or not is the question that needs to be examined. The petitioner, being a permanent member of the prison service, is definitely is the one, protected under Article 311 of Constitution of India.

2.3. Therefore, unless and until appropriate steps are taken duly affording an opportunity to the petitioner to explain her contention in absenting herself from 06.11.2012 to 26.11.2012, no order striking off her name can be passed. Though there is no specific provision providing for conducting a detailed enquiry or affording an opportunity before passing an order under Sub Rule 2 of Rule 128 of Tamil Nadu Prison Rules, 1983, the principles of natural justice are bound to be read in to the said rule and the respondents ought to have followed the basic principles of natural justice before issuing the impugned proceedings, as same would be taking away the livelihood of the petitioner, thereby violating the right to life enshrined under Article 21 of the Constitution



W.P.No.6273 of 2013

WEB COPY of India.

3. Further as already noted above, the third respondent alleged to have acted malafide because of the prejudice that was developed against the petitioner. In the light of the same as already observed above, the first respondent ought to have afford an opportunity to the petitioner before passing the impugned order.

4. As already noted above, by virtue of the interim order that was passed as early as in the year 2013, the petitioner has been continued in service till date of her superannuation on 30.06.2023 and retired. In the light of the above, the impugned proceedings cannot be sustained and the same is accordingly, quashed.

5. Though it is brought to the notice of this Court that during the pendency of this writ petition, the respondents have issued a charge memo dated 20.04.2013, but appears to have not taken any action pursuant to the said charge memo. In the view of the fact that more than a



W.P.No.6273 of 2013

WEB COPY

decade has elapsed since the date of the issuance of the charge memo, this Court is not inclined to permit the respondents to continue the said proceedings any further against the petitioner, especially, taking into consideration that the petitioner has already attained the age of superannuation, and retired from service in the year 2003.

6. Accordingly, the writ petition is allowed, directing the respondents to treat the petitioner as the one continued in service and fix and settle all the terminal benefits payable to the petitioner as if the petitioner is continued in service without any break, except for the period from 06.11.2012 to 13.03.2013 i.e. till the date on which this Court passed an interim order. The said period i.e. from 06.11.2012 to 13.03.2013 shall be treated as leave that may be available to the credit of the petitioner. The entire exercise as directed above shall be completed by the respondents within a period of two months from the date of receipt of a copy of this order.



W.P.No.6273 of 2013

WEB COPY

7. In the result, this Writ Petition is allowed. No costs.

**12.08.2025**

Index: Yes/No  
Internet: Yes/No  
Speaking/Non-Speaking order  
mtl

To

1.The Superintendent,  
Central Jail, Salem.

2.The Superintendent,  
Sub-Jail, Omalur.

3.Sankar,  
Superintendent,  
Sub-Jail, Omalur.



WEB COPY



W.P.No.6273 of 2013

**MUMMINENI SUDHEER KUMAR, J.**

mtl

**W.P.No.6273 of 2013**

**12.08.2025**