



W.P. No. 14697 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.04.2025

CORAM

THE HON'BLE Ms. JUSTICE R.N.MANJULA

W.P. No. 14697 of 2018

and

W.M.P. No. 17361 of 2018

A.Lakshmikanthan

... Petitioner

-VS-

1. The Director General of Police
Tamil Nadu, Chennai.
2. The Deputy Commissioner of Police
Armed Reserve, Greater Chennai Police
Vepery, Chennai-600 007.
3. The Assistant Commissioner of Police
Motor Transport
St. Thomas Mount, Chennai.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, calling for the records relevant to the order in RC.No.76366/AP.3(2)2015 dated 05.12.2016 passed by the first respondent by confirming the order in PR.No.138/PR.V(2)/2014 dated 13.01.2015 passed by the second respondent and quash the same is illegal, improper, against the law and natural justice and thereby direct the respondents to reinstate the petitioner into his service with effect from 13.01.2015 and pay back all the service and monetary benefits to the petitioner immediately.



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For Petitioner : Mr.B.Gopalakrishnan

For Respondents : Mr.A.M.Ayyadurai, GA

ORDER

This writ petition has been filed to challenge the order dated 05.12.2016 of the first respondent in RC.No.76366/AP.3(2)2015 dated 05.12.2016 by confirming the order in PR.No.138/PR.V(2)/2014 dated 13.01.2015 passed by the second respondent and quash the same as illegal, improper, against the law and natural justice and thereby, direct the respondents to reinstate the petitioner into service with effect from 13.01.2015 and pay back all the service and monetary benefits to the petitioner immediately.

2. Mr.B.Gopalakrishnan, learned counsel for the petitioner and Mr.A.M.Ayyadurai, learned Government Advocate for the respondents and perused the materials placed on record, apart from the pleadings of the parties.

3. The petitioner has been given with the charges that he remained absent for 60 days and abandoned his works. As the charges have been proved, the



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petitioner has been removed from service. The mercy petition filed by the

petitioner was also dismissed on 05.12.2016.

4. The learned counsel for the petitioner submitted that he has not been given with the notice to appear before the Superintendent of Police when he was presumed to have deserted his service and the charge memo has been directed served.

5. The learned Government Advocate for the respondents submitted that after the petitioner unauthorizedly remained absent, he was served with the desertion form dated 03.10.2013 to state the reason for his unauthorized absence and that the petitioner did not appear within 60 days and only thereafter, the charge memo has been issued.

6. Even then, as per the circular of the first respondent dated 06.12.2007, no major punishment of removal or dismissal from service should be imposed. But the above limitation will arise only if the deserter appeared before the Superintendent of Police and submit reasons for his absence and it is found to be not satisfactory. The petitioner did not appear before the Superintendent of



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Police even after the notice calling upon him to report for duty. Hence, there is

no reason available for the Superintendent of Police for consideration.

7. However, in the impugned order dated 13.01.2015, no reference has been made about the first respondent's circular and the justification for awarding the punishment of removal or dismissal from service in the context of the circular. Even the first respondent, who have passed the order dated 05.12.2016 also, did not make any mention about the circular and how the circular will not restrict the appointing authority to impose a serious punishment of removal from service/compulsory retirement.

8. Only on this limited aspect that the matter can be remitted back to the first respondent to consider the representation of the petitioner afresh, but without disturbing the order of removal from service passed by the second respondent.

9. Hence, the writ petition is disposed and the first respondent is directed to consider the representation of the petitioner in the light of the above observations and pass orders within four weeks from the date of receipt of a



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copy of this order. Consequently, the connected Miscellaneous Petition is

WEB closed. No costs.

09.04.2025

Internet: Yes/No

Speaking /Non-speaking order

Neutral Case Citation : Yes/No

Maya

To

1. The Director General of Police
Tamil Nadu, Chennai.
2. The Deputy Commissioner of Police
Armed Reserve, Greater Chennai Police
Vepery, Chennai-600 007.
3. The Assistant Commissioner of Police
Motor Transport
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R.N.MANJULA, J.

Maya

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