



W.P(MD)No.14076 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:05.11.2025

CORAM

THE HONOURABLE **MR.JUSTICE C.KUMARAPPAN**

WP(MD)No.14076 of 2019

and

W.M.P(MD)No.10555 of 2019

Valsala

... Petitioner

Vs.

1.The Principal Secretary to Government,
Home Department,
St. George Fort,
Chennai.

2.The Superintendent of Police,
Kanyakumari District at Nagercoil.

3.The Inspector of Police,
South Tamaraikulam Police Station,
Kanyakumari District.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order of removal of services passed by the second respondent vide L1/PR/101/2008 u/r. 3(b) dated 27.05.2009 and consequential order passed by him vide PR/101/08 dated 08.06.2009 and quash the same as illegal and consequently direct the respondents to disburse all pensionary benefits to the petitioner.



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For Petitioner : Mr.M.Manoj Kumar
for Mr.K.P.Narayanakumar

For R1 to R3 : Mr.J.Ashok
Additional Government Pleader

ORDER

The present writ petition has been filed challenging the impugned order passed by the second respondent dated 27.05.2009 and the consequential order passed by him on 08.06.2009.

2. Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents and perused the materials available on record.

3. The learned counsel for the petitioner would submit that the petitioner's husband Mr.Lazer was working as Head Constable under the third respondent police Station. On 22.03.2008 at about 08.30 a.m., he left the house after informing to the petitioner that he is going to the police station for work. Thereafter, he did not return to home. He would further submit that even on enquiry from the police station, the petitioner did not



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know the whereabouts of Mr.Lazer. In the meanwhile, the second respondent had issued a charge memorandum on 27.05.2009 under Rule 3(b) of TNPSS (D & A) on the ground of desertion with effect from 22.03.2008.

4. The learned counsel for the petitioner would further submits that though charge-memorandum was framed against Lazer, the same was served only to the petitioner as the respondents could not find Mr.Lazer. Since there was no response from the petitioner, the respondents were ultimately found against the Lazer and removed him from the service vide impugned order dated 08.06.2009. He further submitted that the petitioner has filed a suit in O.S.No.244 of 2015 before the I Additional District Munsif Court, Nagercoil, wherein, the Civil Court has declared that Mr.Lazer attained civil death. Therefore, the impugned order is to be set aside as he is not known for more than 7 years and he was declared as attained civil death. Hence, prays for allowing the writ petition.

5. This contention was objected by the learned Additional Government Pleader. He would submit that there is a long delay in filing the writ petition and it is hit by delay and laches. Apart from that, even the petitioner, did not appear before the authority. Therefore, would contend that only after following all due procedure, the second respondent has issued the impugned



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orders, hence the petitioner cannot have any grievance to challenge the said order.

6. While looking at the facts of the case, the missing of Mr.Lazer is not in serious dispute. According to the affidavit, he was missing from 22.03.2008 and thereafter, on 24.03.2008 FIR was also registered in Cr.No. 169 of 2008. It also emanates from the records that the petitioner had also filed H.C.P.No.806 of 2009 and the said petition was closed on 10.12.2009.

7. While looking at the impugned order, it is an admitted fact that the respondents had served charge memorandum only to the petitioner, as the Mr.Lazer was missing since then. As a matter of fact, since Mr.Lazer was not heard of for more than seven years, the petitioner filed a suit in O.S.No.244 of 2015, on the file of the I Additional District Munsif Court, Nagercoil, wherein, these respondents were also party. In which, the Civil Court, after having elaborate trial, has ultimately gave a declaration that Mr.Lazer attained civil death. Therefore, it is amply clear that the impugned order was passed against the dead person, which is illegal, therefore, this Court find justification in favour of the petitioner.



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8. Accordingly, the writ petition is allowed and the impugned orders dated 27.05.2009 and 08.06.2009 passed by the second respondent are set aside as abated as the Civil Court in O.S.No.244 of 2015 declared the civil death of the delinquent Mr.Lazer. As a sequitur, the respondents are directed to disburse all the pensionary benefits to the petitioner, within a period of twelve (12) weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes/No
Neutral Citation : Yes/No
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C.KUMARAPPAN, J.

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