



W.P.(MD)No.20664 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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RESERVED ON : 29.10.2024

PRONOUNCED ON : 27.01.2025

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

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M.Ramesh

... Petitioner

Vs.

1.The Director General of Police,
Kamarajar Salai,
Mylapore,
Chennai 600 004.

2.Deputy Inspector General of Police,
Coimbatore Range,
Coimbatore District.

3.The Superintendent of Police,
Udhagai, Nilgiris District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records in connection with the impugned order of removal from service passed by the 3rd respondent in his proceedings in H1/PR No.204/2017 dated 12.01.2018 and the same being confirmed on appeal by the 2nd respondent vide his impugned proceedings in Na.Ka.No.D2/1411/2018 dated 14.03.2018 and the same being confirmed by the 1st respondent vide his impugned proceedings in Rc.No.690186/AP.1(1)/2020 dated 02.03.2021 and quash all and



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consequently direct the respondents to reinstate the petitioner in service and grant all service and monetary benefits with back wages on par with his batch mates within the time limit that may be stipulated by this Court.

For Petitioner : Mr.G.Thalaimutharasu

For Respondents : Mr.D.Gandhiraj,
Special Government Pleader

ORDER

Heard the learned counsel for the Petitioner, Mr. Thalaimutharasu, the learned Special Government Pleader, Mr. D.Gandhiraj for the respondents and carefully perused the materials available on record.

2.The petitioner was appointed as Grade-II Police Constable on 01.03.2009 and was posted with the Tamil Nadu Special Police's 1st Battalion stationed at Trichy. Thereafter, he was transferred from Tamil Nadu Special Police and was posted at the Trichy City Armed Reserve on 10.08.2011. On 08.11.2016, the petitioner was transferred to Nilgiri's Armed Reserve. While the petitioner was attached with the Armed Reserve Unit of Nilgiri's District, he was directed to undergo State Disaster Response Forced Training at Trichy District Armed Reserve and was relieved from the Armed Reserve Nilgiri's at 18 hours



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with a direction to report for training. The petitioner reported for training at Trichy TN CS Training School on 03.04.2017 at 10 hours. The petitioner was scheduled to fall in line by 6 a.m., for training, but turned up at 6.30 a.m. When the course trainer and the Sub-Inspector questioned the petitioner, it is claimed by the department that the petitioner abused the Sub-Inspector, Kathiresan and behaved disrespectfully.

3. Thereafter, the petitioner was relieved from training on 11.04.2017 at 7 hours and was sent back with a passport to report duty at the Armed Reserve Nilgiri's Unit. However, instead of reporting duty at Nilgiri's Armed Reserve, the petitioner remained absent without intimating to his superiors. The petitioner on his own volition without following the procedure availed medical leave from 11.04.2017 to 30.05.2017. He further availed medical leave without permission from 12.07.2017 to 10.08.2017 without any authorization. On 08.08.2017, he went to the Trichy Armed Reserved and entered into a wordy quarrel with Sub-Inspector one Mahendran, as a result of which, a First Information Report in Crime No. 628 of 2017 under Sections 294B, 323, 353, 506(1) IPC read with the Tamil Nadu Prohibition of Harassment of Women Act, 1998 and under Section 4(1) of the Tamil Nadu Prohibition



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Act was registered as against the petitioner on 08.08.2017 and was arrested and remanded to judicial custody in Trichy Central Prison from 08.08.2017 to 12.10.2017.

4.In view of the series of the above narrated incidents, the petitioner was placed under suspension from 08.08.2017 afternoon. The Deputy Superintendent of Police, Armed Reserve, Nilgiris conducted a preliminary enquiry. Based on the preliminary enquiry, six charges were framed as against the petitioner under Rule 3B in PR No.3204 of 2017. The enquiry officer concluded all the charges as against the petitioner as proved and on the basis of the findings of the enquiry officer, the Superintendent of Police, Nilgiris / third Respondent removed the petitioner from service in his proceedings in H1 / PR No. 204 / 2017 dated 12.01.2018. The petitioner preferred an appeal to the Deputy Inspector General of Police and the same was considered by the Deputy Inspector General of Police, that is, the second respondent and the punishment enforced by the third respondent was confirmed on appeal by the second respondent vide impugned proceedings in Na.Ka.No. D2 / 1411 / 2018 dated 14.03.2018 against which the petitioner preferred a mercy petition before the Director General of Police / first respondent and the first respondent by impugned proceedings in RC No. 690-196 /



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AP.1(1) / 2020 dated 02.03.2020 confirmed the same. Challenging all the three proceedings passed by the third respondent, second respondent and first respondent confirming the removal of the petitioner from service, this writ petition is filed.

5.The charges framed as against the petitioner in brief are as follows:

(i) The petitioner failed to appear for training at 06:00 am. on 11-4-2021 at Tamil Nadu Commando School at Trichy and instead presented himself at the grounds at 6:30 a.m., under the influence of alcohol.

(ii) The petitioner availed medical leave without following the procedure and without informing his superiors from 11-04-2017 to 30-05-2017 in two tranches.

(iii) The Petitioner availed casual leave for two days viz. 10.07.2017 and 11.07.2017 further without intimating any of his superiors and without reporting at the nearest police station approached the Government Medical Doctor on his own and availed medical leave from 12.07.2017 to 10.08.2017.

(iv) While on medical leave the petitioner went to Trichy



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City Armed Reserve on 08.08.2017 at about 07.00 PM and threatened and questioned Sub-Inspector Mahendran as to who marked absent for his friend Prabhu.

(v) Again on 8.8.2017 in continuation of the event, the petitioner assaulted Sub- Inspector Mahendran, slapped him and caught his shirt and pulled the Sub- Inspector. Further the petitioner beat one woman constable Ms.Vijayalakshmi and kicked another woman constable Ms. Vasanthi who tried to intervene and prevent the petitioner.

(vi) The Petitioner was remanded to central Prison Trichy for his involvement in Cr.No.628/2017 of K.K.Nagar Police Station u/s 294 (b), 323, 353, 506(1) IPC r/w section 4 of the Tamil Nadu prohibition of Women Harassment Act 2002 and section 4(1) J of the Tamil Nadu Prohibition Act".

6.As far as the first three charges are concerned, the same is with respect to unauthorized absence where the petitioner had availed medical leave without proper authorization from the competent officer. As far as the other three charges are concerned, the same is with respect to a tussle which culminated into a wordy quarrel with one Sub-Inspector Mahendran, when the petitioner went to Trichy City Armed Reserve on 08.08.2017 at about 7 p.m., questioning as to why the said Sub Inspector Mahendran had marked absent for his friend Prabhu.



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The charges alleging that the petitioner on 08.08.2017 had assaulted the said Sub-Inspector Mahendran, slapped him and caught his shirt and pulled the Sub-Inspector and further had attacked one woman Constable namely Vijaya Lakshmi and kicked another woman Constable Vasanti which had culminated in the registration of Crime No. 628 of 2017 of Trichy KK Nagar Police Station, further resulted in filing of a charge sheet in C.C.No. 876 of 2009 on the file of the learned Judicial Magistrate, Additional Mahila Court, Trichy.

7.After an elaborate trial, the learned Judicial Magistrate, Additional Mahila Court, Trichy, acquitted the petitioner by order dated 10.08.2020 in the aforesaid criminal case. Though the delinquency of unauthorized absence would not warrant the punishment of removal from service, the delinquency on the part of the petitioner on having indulged in unnecessary arguments with his higher authorities to the extent of a wordy quarrel and physical tussle cannot be taken well by the higher authorities in a police force known for discipline and outrightness. That apart, the acquittal of the petitioner by the learned Mahila Court cannot be considered as an honorary acquittal but the same is one on benefit of doubt.



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8.The Honorable Supreme Court in the case of ***the Deputy Inspector General of Police and Others vs. S. Samuthram reported in MANU/SCC/1029/2012*** has held that the mere acquittal of an employee by a criminal Court has no impact on the disciplinary proceedings initiated by the department. Considering the fact that the petitioner is a employee of a disciplinary force and that the acquittal is only on benefit of doubt and not an honorary acquittal and since it is a settled law that strict burden of proof required to establish guilt in a criminal Court is not required in a disciplinary proceeding and delinquency could be fixed on preponderance of probabilities, I am of the considered view that the punishment imposed on the petitioner by the first, second and third respondents more particularly the third respondent on preponderance of probabilities would suffice. I am not inclined to hold in the instant case that, even though the petitioner has been acquitted by the criminal Court, even in that case he is not entitled to claim reinstatement, since the Tamil Nadu Service Rules do not provide so.



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9. Accordingly, the Writ Petition fails and the same is dismissed.

No costs.

27.01.2025

NCC : Yes / No

Index : Yes / No

Internet : Yes

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To

1. The Director General of Police,
Kamarajar Salai,
Mylapore,
Chennai 600 004.
2. Deputy Inspector General of Police,
Coimbatore Range,
Coimbatore District.
3. The Superintendent of Police,
Udhagai, Nilgiris District.



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L.VICTORIA GOWRI, J.,

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