



WEB COPY



W.P. No.23715 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.01.2026

CORAM:

**THE HONOURABLE MR. JUSTICE M.DHANDAPANI**

W.P. No.23715 of 2025  
and  
W.M.P. No.55498 of 2025

S.Sivaganesh

Petitioner

Vs

1. The Secretary to Government  
Home(Police VI),Department,  
Secretariat, Chennai -600 009.

2.The Director General of Prisons and  
Correctional Services,  
HO TNPCS Director General of Prisons  
TNPCS,  
Egmore, Chennai -600 008.

3.The Deputy Inspector General of  
Prison,  
Vellore Range, Vellore.

4.The Superintendent of Prison,  
Vellore CP SO, TNPCS.

Respondents

**Prayer :** Writ Petition filed under Article 226 of the Constitution of India to issue Writ of Certiorarified Mandamus, calling for the records, relating to the orders dated 16.04.2025 of the 2<sup>nd</sup> respondent (2) Pro. R.O.-VLR/655/2024-



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(CAMP(A) dated 22.10.2024 of the 3<sup>rd</sup> respondent respondent and (3) Pro.No. 555/Po.1/2023 dated 02.08.2024 of the 4<sup>th</sup> respondent to quash the same and to issue consequential directions to the respondents to reinstate the Petitioner in service within a limited time frame, with consequential benefits

For Petitioner : Mr. Balan Haridhas  
for Mr.J. Muthukumaran  
For Respondents: Mr.P. Ganesan  
Additional Government Pleader

### **ORDER**

This writ petition has been filed to call for the records, relating to the orders dated 16.04.2025 of the 2<sup>nd</sup> respondent; ii) Pro. R.O.-VLR/655/2024- (CAMP(A) dated 22.10.2024 of the 3<sup>rd</sup> respondent and iii) Pro.No. 555/Po.1/2023 dated 02.08.2024 of the 4<sup>th</sup> respondent to quash the same and to issue consequential directions to the respondents to reinstate the petitioner in service within a time frame with consequential benefits.

2. It is the case of the petitioner that he was appointed as Police Constable Grade-II (Warden Grade-II) in the Department of Prisons and Correctional Services on 17.01.2013 and completed training on 16.07.2013. He was posted at Sub Jail, Thirukovilur and later transferred to Central Prison, Vellore. While so, due to his health conditions, he could not attend duty from 15.06.2023 to 16.08.2023. Thereafter, a charge memo dated 16.08.2023 was issued under

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Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules

alleging unauthorised absence.

3. After due enquiry, the Enquiry Officer held the charge as proved. Based on the said report of the Enquiry Officer, the 4<sup>th</sup> respondent imposed the extreme punishment of dismissal from service on 02.08.2024, which came to be confirmed in appeal and revision, vide orders dated 22.10.2024 and 16.04.2025 by the respondents 2 and 3 respectively. Challenging the aforesaid orders, this writ petition has been filed.

4. Learned counsel for the petitioner submitted that the absence of the petitioner at that relevant point of time was due to bona fide medical reasons and the same was supported by treatment records. He fairly submitted that though the petitioner had earlier punishments, in all previous instances the major punishments were modified into minor punishments by the appellate authority. By relying a Circular issued by the Director General of Police dated 06.12.2007, he submitted that the said Circular discourages dismissal solely on the ground of desertion/unauthorised absence when explanation is forthcoming.

5. Learned counsel drew the attention of this Court to a judgment of the Hon'ble Division Bench, dated 08.06.2023 in W.A. No.1848 of 2022 in the case of *The Director General of Police vs. S. Velu*, wherein it was held that



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delinquent officials were permitted to submit an undertaking and the matter was reconsidered. Therefore, he submitted that this Court may direct the petitioner to submit an affidavit of undertaking before the respondents so as to enable him to safeguard his job. On the aforesaid score, he prayed for quashment of impugned orders issued by the respondents 2 to 4, dated 02.08.2024, 22.10.2024 and 16.04.2025 respectively.

6. Learned Additional Government Pleader appearing for the respondents submitted that the petitioner is a chronic absentee and had suffered seven punishments, with one more disciplinary proceeding pending. In this regard, he reiterated the lines of the counter affidavit, particularly para 4 and pointed out the nature of earlier charges imposed on the petitioner. He further submitted that the said Circular referred to by the learned counsel for the petitioner applies only to general police and not to prison personnel. In view of the above, this Court may dismiss the writ petition as the impugned orders are justifiable.

7. This Court has carefully considered the rival submissions made by learned counsel and perused the entire records.

8. It is not in dispute that the present charge relates only to unauthorised absence. Equally, it is an admitted position that in all previous cases where



major punishments were imposed, the same were subsequently modified by the higher authorities into minor punishments. Though the respondents contend that the petitioner is a regular absentee, this Court notes that none of the allegations relate to corruption, or serious dereliction of duty. The Hon'ble Supreme Court as well as this Court have repeatedly held that dismissal merely on the ground of over-staying leave or unauthorised absence is harsh and disproportionate, unless accompanied by aggravating circumstances.

9. The Circular dated 06.12.2007 issued by the Director General of Police, though it is stated to be applicable to general police, embodies a principle of proportionality, namely that desertion cases should not mechanically result in dismissal when valid reasons are forthcoming. The said principle cannot be ignored merely on the ground of departmental classification. Further, the Hon'ble Division Bench of this Court in W.A. No.1848 of 2022 permitted reconsideration of punishment on the basis of an undertaking affidavit, especially where the delinquent was young in service and the misconduct was not heinous. Considering the age of the petitioner (32 years) and the nature of the misconduct, this Court is of the view that one more opportunity deserves to be granted, without straightaway setting aside the punishment.



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10. For the reasons aforesaid, this Court issues the following directions :-

a. The petitioner is directed to submit an undertaking affidavit stating that he will not repeat such conduct in future and will strictly adhere to service discipline, before the 2<sup>nd</sup> respondent, within a period of two weeks from the date of receipt of a copy of this order.

b. Upon receipt of such undertaking, the 2<sup>nd</sup> respondent shall reconsider the punishment imposed on the petitioner, keeping all aspects, namely, the petitioner's age, nature of charges, law laid down in W.A. No.1848 of 2022.

c. Entire exercise shall be completed within a period of eight weeks thereafter.

11. The writ petition is disposed of in the above terms. No costs. Consequently, connected miscellaneous petition is closed.

08.01.2026

Index : Yes / No  
Internet: Yes/No  
Speaking Order/Non-Speaking Order  
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To

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**M.DHANDAPANI, J.**

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