

In the High Court of Judicature at Madras

Dated: 09.10.2015

Coram

The Honourable Mr.JUSTICE M.SATHYANARAYANAN

Writ Petition No.32098 of 2015

A.Sammannasunathan

.... Petitioner

Vs.

1. The Director General of Police (Law & Order)
Kamarajar Salai, Chennai - 600 005.
2. The Commissioner of Police,
Chennai City Police,
Vepery, Chennai - 600 007.
3. The Joint Commissioner of Police,
Chennai South, St. Thomas Mount,
Chennai - 600 060.

.... Respondents

PETITION under Article 226 of The Constitution of India praying for issuance of Writ of Mandamus directing the second respondent to pass orders on the representations of the petitioner seeking reinstatement in service with all attendant benefits of arrears of salary, calculation of pension, and other allowances, within a reasonable time.

For Petitioner : Mr.V.Parthiban
for M/s.Paul and Paul

For Respondents: Mr.V.Subbiah, Spl.G.P.

O R D E R

By consent, the Writ Petition is taken up for final disposal.

2. The petitioner, while working as a Head Constable at Thuraipakkam Police Station, was placed under suspension with effect from 19.11.2002 on the pretext that he caught red handed while accepting illegal gratification. The petitioner, pending order of suspension, has attained the age of superannuation on 31.7.2006, but the petitioner was allowed to retire and the service of the petitioner was extended beyond the age of superannuation. However, no charge memo has been issued. The criminal prosecution instituted

against the petitioner has culminated into filing of charge sheet, which was taken on file in C.C.No.6 of 2003 on the file of the Court of Special Judge - cum- Chief Judicial Magistrate, Chengalput. The Trial Court convicted and sentenced the petitioner vide judgment dated 28.05.2008 for the commission of offence under Sections 7, 13 (1)(d) read with 13(2) of the Prevention of Corruption Act, 1988. Thereafter, the petitioner was issued with a show cause notice on 26.12.2008 as to why he should not be imposed with a punishment of removal from service on account of his conviction and sentence passed by the Trial Court. The petitioner has submitted his explanation, which was not found to be satisfactory and therefore, the second respondent, vide order dated 07.10.2009 has removed the petitioner from service.

3. The petitioner, challenging the said conviction and sentence passed by the Trial Court in C.C.No.6 of 2003, has filed an appeal before this Court in C.A.No.393 of 2008 and got the order of suspension of sentence of imprisonment. The said appeal was taken up for final disposal and vide judgment dated 08.4.2014, this Court held that the petitioner/appellant No.2 and Arokiaraj - appellant No.1 have been able to prove that the explanation given by them as to the position of money was both probable and reasonable and acquitted both of them. According to the petitioner, as against the judgment of this Court, no appeal has been filed.

4. The petitioner, on account of his acquittal, has submitted a representation dated 07.05.2015 to the second respondent praying for conferment of all other consequential benefits in the light of the order of acquittal passed by this Court and though it was acknowledged, no orders have been passed. Hence, the petitioner came forward to file this Writ Petition.

5. Mr.V.Parthiban, learned counsel appearing for the petitioner would submit that as the petitioner has been honourably acquitted by this Court in C.A.No.393 of 2008, there cannot be any impediment on the part of the respondents to confer the benefits with all consequential benefits and prays for appropriate orders for the reason that the petitioner is at present aged about 67 years.

6. Mr.V.Subbiah, learned Special Government Pleader, who accepts notice on behalf of the respondents, seeks time to get instructions as to whether any appeal has been filed as against the order of acquittal passed by this Court, before the Honourable Supreme Court of India.

7. This Court heard the submissions of the learned counsel appearing for the petitioner and the learned Special Government Pleader, who accepts notice on behalf of the respondents.

8. Though the petitioner has prayed for a larger relief, this Court, in the light of the above facts and circumstances, directs

respondents 1 and 2 to consider the representation of the petitioner dated 07.05.2015 and pass orders on merits and in accordance with law after taking note of the order of acquittal passed by this Court dated 08.04.2014 in C.A.No.393 of 2008 within a period of eight weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner.

The Writ Petition is disposed of accordingly. No costs.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

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To

1. The Director General of Police (Law & Order)
Kamarajar Salai, Chennai - 600 005.
2. The Commissioner of Police,
Chennai City Police,
Vepery, Chennai - 600 007.
3. The Joint Commissioner of Police,
Chennai South, St. Thomas Mount,
Chennai - 600 060.

+1 cc to M/s.Paul & Paul, Advocate, sr.55696

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