



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.07.2015

CORAM:

THE HONOURABLE Mr.JUSTICE S.VAIDYANATHAN

W.P. (MD) No.9783 of 2015

Jeyaraj

... Petitioner

Vs.

The Superintendent of Police,
Pudukkottai District.

... Respondent

PRAYER: Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondent to pay full wages for the period of petitioner's suspension, leave salary, dearness allowance from 2006 to 2011 and increment at once to the petitioner.

For Petitioner : Mr.P.Ganapathi Subramanian
For Respondent : Mr.S.Kumar, AGP

O R D E R

The Writ petition has been filed for issuance of a Writ of Mandamus, directing the respondent to pay leave salary, dearness allowance and also increment for the suspension period from 2006 to 2011.

2.The case of the petitioner is that while he was working as a Police Constable, he has been placed under suspension from 05.07.2006 due to the registration of a criminal case in Crime No.306 of 2006 under Sections 294(b), 323, 342 and 307 IPC. After trial in S.C.No.8 of 2007 before the learned Additional District and Sessions Judge, Pudukkottai, the petitioner has been acquitted by judgment dated 01.02.2007. During the suspension period, the petitioner was paid subsistence allowance. Thereafter, due to an accident, the petitioner was unable to attend duty from 02.03.2010. Hence, the respondent has framed charges and dismissed the petitioner from service on 13.06.2011. An appeal has been preferred before the Deputy Inspector General of Police, Trichy and the said punishment has been modified into that of compounding retirement vide his order dated 23.08.2011 in Na.Ka.No.B2/Memu 16-11.

3.The grievance of the petitioner is that during the period of suspension from 07.07.2006 to 02.02.2007, while settling the retirement benefits, the respondent totally deducted the subsistence allowance already paid and also adjusted towards earned leave salary and treated the remaining period as loss of pay and also failed to pay the increment for the year 2006 and dearness allowance. In this



regard, the petitioner has made several representations to the respondent. However, no action has been taken. Hence, the petitioner is before this Court with the present Writ petition.

4. The learned Additional Government Pleader appearing for the respondent submitted that the amount due and payable to the petitioner has already been settled and on account of the earned leave, the same has also been paid to the petitioner at the time of retirement. It is also submitted that the petitioner has not challenged the action of the respondent in not settling the allowances, without questioning the suspension period, which was treated as loss of pay and the same has not been questioned by the petitioner, seeking mandamus for payment of leave salary etc is not maintainable.

5. It is seen that the suspension period was regularized and the said period was treated as loss of pay. However, the same has not been questioned by the petitioner. As long as that order is in force, the petitioner cannot seek a mandamus claiming the benefit as stated supra. That apart, earned leave salary was also settled as early as on 18.06.2012 and the petitioner has come forward with the aforesaid prayer after a delay of 3 years from the date of settlement of the earned leave. As rightly pointed out by the learned Additional Government Pleader appearing for the respondent, the earned leave salary has been settled apart from the fact that the reinstatement of suspension period was treated as loss of pay and the same has not been questioned by the petitioner, seeking mandamus for granting mandatory benefits for the period from 2006 to 2011, is not maintainable.

6. In the result, the Writ petition is dismissed. However, it is open to the petitioner to agitate his grievance before the appropriate forum in the manner known to law challenging the regularization of suspension period on the ground of loss of pay. No costs.

Sd/-

Assistant Registrar (Writs)

/True Copy/

Sub Assistant Registrar

To

The Superintendent of Police,
Pudukkottai District.

+1cc to The Special Government Pleader SR.No.36579

akm/26.08.2015

/2p-3c/