

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.10.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P. No.8917 of 2007

M.P.Nos. 1 of 2007, 1 of 2008, 2 of 2010 & 3 of 2014

M.Arul, P.C.15082 ... Petitioner

Vs.

1. The Superintendent of Police,
Tamil Nadu Commando Force,
Chennai - 28.
2. The Dy. Commissioner of Police (I.S.),
O/o. The Commissioner of Police,
Egmore, Chennai - 8.
(Personal name deleted as per order dated 13.03.2014
in WP Nos.9927 and 8917 and 7680 of 2007)
3. The Commissioner of Police,
Chennai police, Chennai.
(R3 - Impleaded as per Order dated 13.03.2014 in
M.P. Nos. 1,2,4, & 5 in WP No.8917 of 2007).

... Respondents

Prayer : Writ petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records in connection with the PR. No.4/2005 issued by the 1st Respondent herein and the order of punishment No.RC.No.182/66139/PR.II(2)/2005, dated 07.10.2011 passed by the 3rd Respondent herein and quash the same consequently direct the respondents to extend all service benefits including promotions on par with the petitioner's batch mates and regularise his suspension period as duty with full back wages.
(Prayer amended as per order dated 13.3.2014 in M.P. Nos. 1,2,4, & 5 in WP No.8917 of 2007).

For Petitioner : Mr.R.Sampathkumar
For Respondents : Mr.V.Jayaprakash Narayanan,
Special Govt. Pleader

O R D E R

The prayer in the Writ petition is for the issuance of a Writ of Certiorarified Mandamus calling for the records in connection with the PR. No.4/2005 issued by the 1st respondent herein and the order of punishment No.RC.No.182/66139/ PR.II(2)/2005, dated 07.10.2011 passed by the 3rd Respondent herein and quash the same consequently direct the respondents to extend all service benefits including promotions on par with the petitioner's batch mates and regularise his suspension period as duty period with full back wages.

2. The case of the petitioner is that he was appointed in the police department as Grade II Police Constable on 25.10.1993. While he was in service, he was suspended on 22.08.2005 and a charge memo in PR No.04/2005 was issued to him on 22.08.2005 itself. An Enquiry Officer was appointed and enquiry was conducted, ultimately a punishment on 2.09.2011 was inflicted on the petitioner by which the third respondent Commissioner of Police passed an order withholding his next increment of pay for two years without cumulative effect. The said order dated 02.09.2011 was appealed to the Director General of Police, Chennai - 04 on 18.11.2011. Thereafter, since the said appeal was not considered and disposed by the Director General of Police, the reminders seems to have been sent by the petitioner on 14.07.2012, 08.11.2012 and 27.12.2012.

3. Taking into account the pendency of the appeal and subsequent reminders submitted by the petitioner, a communication was given to the petitioner through the Additional Commissioner of Police - Traffic, Kilpauk, Chennai on 04.01.2013 stating that the petitioner's appeal filed before the Director General of Police has been attended to and after considering his appeal, the necessary orders redressing his grievance would be passed and till such time, the petitioner was requested not to make further reminders.

4. From the above communication issued on behalf of the respondents dated 04.01.2013, it is clear that the appeal filed by the petitioner as against the order of punishment. i.e. Impugned order is under consideration.

5. The learned counsel appearing for the petitioner would contend that the petitioner is no way connected to the charges

framed against him. The charges were levelled against many persons including the petitioner herein. The petitioner disputed all the charges before the enquiry officer, which were not considered in proper perspective. In the Order dated 02.09.2011, the Enquiry Officer has held as follows:-

"Though I agree with the findings of the Enquiry Officer, considering his otherwise unblemished service, I take a lenient view, in order to give him an opportunity to serve better and award punishment of withholding his next increment of pay for two years without cumulative effect."

6. The learned counsel appearing for the petitioner would further contend that since the unblemished service having been accepted by the Disciplinary Authority, the Disciplinary Authority may be directed to consider the same and the additional documents submitted by the petitioner and also an opportunity of hearing can also be given by the appellate Authority to the petitioner.

7. Heard both sides.

8. Now as against the order of punishment, which is impugned in the Writ Petition, an appeal was filed before the Director General of Police on 18.11.2011 and the same was under consideration.

9. In view of the submission made by the learned counsel for the petitioner, the Appellate Authority, viz., Director General of Police, Tamil Nadu is directed to consider the appeal filed by the petitioner on 18.11.2011 and decide the issue, taking into account his unblemished service as has been recorded in the impugned order of punishment itself by disciplinary authority and the additional documents filed by him, after providing an opportunity of personal hearing to the petitioner and pass a suitable order, within a period of three months from the receipt of a copy of this order.

10. With these observations, the Writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

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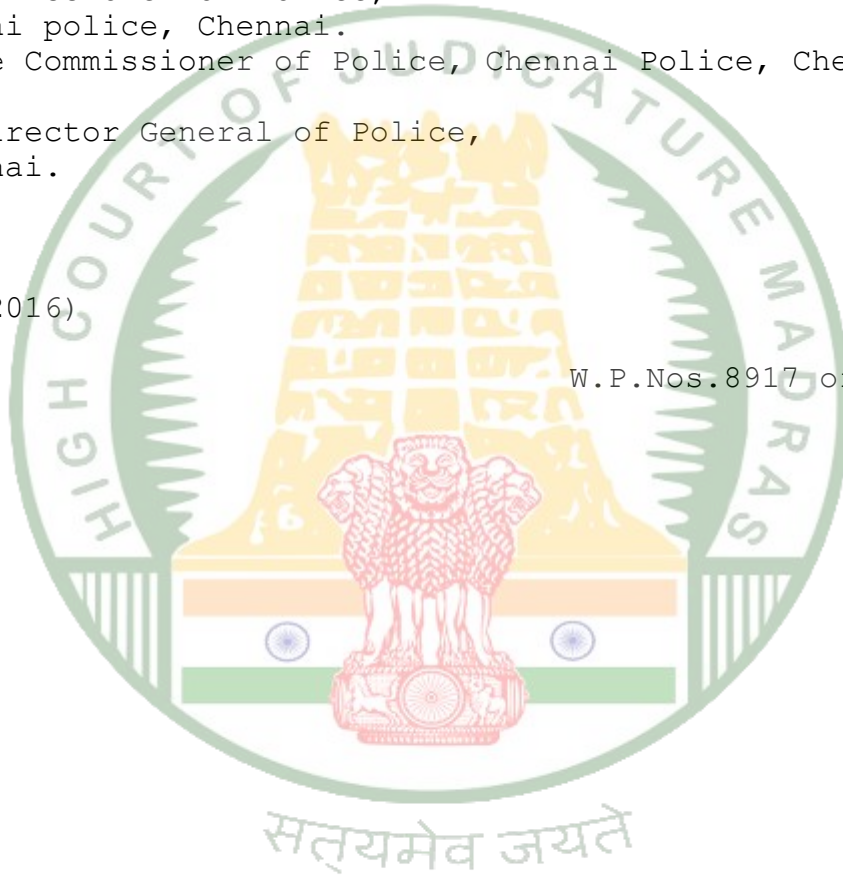
Sub Assistant Registrar

To

1. The Superintendent of Police,
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Chennai - 28.
2. The Dy. Commissioner of Police (I.S.),
O/o. The Commissioner of Police,
Egmore, Chennai - 8.
3. The Commissioner of Police,
Chennai police, Chennai.
R3 The Commissioner of Police, Chennai Police, Chennai.
4. The Director General of Police,
Chennai.

cp(CO)
md(29/11/2016)

W.P.Nos.8917 of 2007



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