

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.06.2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

W.A.No.663 of 2016

1. The Secretary to Government
of Tamil Nadu
Home Department
Madras-9
 2. The Director General of Police
Kamarajar Salai
Madras-4
 3. The Deputy Inspector General of Police
Coimbatore Range
Coimbatore-18
 4. The Superintendent of Police
Periyar District, Erode ... Appellants/Respondents
- Vs-
- C.Jayaraman ... Respondent/Petitioner

Appeal under Clause 15 of the Letters Patent, against the order dated 28.01.2009 made in W.P.No.28612 of 2005.

W.P.No.28612 of 2005 : Writ Petition filed under Article 226 of the Constitution of India came to be numbered by way of transfer of O.A.NNo.3221/95 from the file of TamilNadu Administrative Tribunal with a prayer to issue a Writ of Certiorarified Mandamus, (1)To call for the records relating to the proceedings of the Superintendent of Police, Periyar District in PR.No.48/90 dated 10.10.1990 (2) Proceedings of the Deputy Inspector General of Police, Coimbatore Range, Coimbatore-18 in C.No.D1/3/AP/91 dated 13.12.1991 (3) Proceedings of the Inspector General of Police (L&O) Madras in Proc. No.7265/AP.I (2)/91 dated 4.6.1991 and quash the same and direct the respondents herein to reinstate the petitioner with all consequential service benefits such as difference in arrears of pay sanction of increment, promotion to the higher cadre which has been with-held on account of the above proceedings and pay all the dues.

For Appellants : Mrs.A.Srijayanthi
Special Government Pleader

For Respondent : Mr.K.Rajkumar

JUDGMENT

(Judgment of the Court was made by HULUVADI G.RAMESH, J.)

Heard the learned Special Government Pleader for the appellants and the learned counsel for the respondent.

2. The respondent/writ petitioner is a Police Constable. It appears that he was proceeded with departmentally under Rule 3 (b) of the Tamil Nadu Police Subordinate Service (Discipline & Appeal) Rules for various delinquencies, namely, for the reprehensible conduct of disobeying the instructions of the superior officer to wear the uniform; for the criminal misconduct of disappearing from the police station; for the gross negligence of not turning up for the evening roll call as well for not attending the regular duties and for the said acts of indiscipline, after holding a detailed enquiry, he was removed from service and the said order was confirmed by the appellate authority in appeal. However, on a review petition filed by him, the Inspector General of Police (Law & Order) modified the order of removal from service into one of compulsory retirement. When the writ petition was filed challenging the said order, the learned single Judge, though confirmed the orders passed by the authorities below holding the respondent/writ petitioner guilty of the charges, however, set aside the order of compulsory retirement and instead imposed the punishment of withholding of 75% of his backwages from the date of order of removal from service till the date of retirement on attaining the age of superannuation, by extending the benefit of 25% of the backwages for the period during which he was out of employment. The learned single Judge has also observed that the period of service from the date of removal till the date of retirement on attaining the age of superannuation shall be calculated for the purpose of pension and other related service benefits. As against this order, the State is before us with this above appeal.

3. Having heard the learned Special Government Pleader for the appellants, we are of the view that when it is the cardinal principle under the service jurisprudence that if the respondent/writ petitioner had not worked for the period between the date of his removal till the date of his retirement on reaching the age of superannuation, he is not entitled to the benefit of 25% of backwages, since the same will be an ex-gratia amount to the delinquent without extracting any work, despite holding him guilty of the proven charges. In such

circumstances, the order passed by the learned single Judge extending the benefit of 25% of backwages on the facts of this case, for which the respondent/writ petitioner would not be deserving, appears to be on misplaced sympathy, as the respondent/writ petitioner is bound to maintain discipline and to obey his superiors. Though we do not find fault with the findings reached by the authorities below on the proven charges levelled against the respondent/writ petitioner, instead of extending the benefit of 25% of backwages as ordered by the learned single Judge, on the facts and circumstances of the case, we feel that an amount of Rs.75,000/- can be paid as a lumpsum amount for the 20 years of service rendered by the respondent/writ petitioner along with the pensionary and other service benefits to which he is entitled to from the date of his appointment till the date of compulsory retirement. Accordingly, the writ appeal is allowed in part and the appellants are directed to pay a sum of Rs.75,000/- only to the respondent/writ petitioner for the services rendered in the department to meet out the situation, instead of 25% of backwages, together with the pensionary and other service benefits to which he is entitled to from the date of his appointment till the date of compulsory retirement. Consequently, C.M.P.No.8653 of 2016 is closed. No costs.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government
Home Department
Fort St.George, Chennai 600 009
2. The Director General of Police
Kamarajar Salai, Chennai 600 004
3. The Deputy Inspector General of Police
Coimbatore Range, Coimbatore-18
4. The Superintendent of Police
Periyar District, Erode.

+1cc to Mr.K.Rajkumar, Advocate, S.R.No.31649

+1cc to the Government Pleader, S.R.No.31914

W.A.No.663 of 2016

KS(CO)

CA(23/06/2016)