

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.10.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.33639 of 2016

and W.M.P.No.29008 of 2016

T.Udayasuriyan Petitioner

Vs

- 1 The Secretary to Government
of Tamil Nadu,
Rep. by the Secretary,
Home Department,
Fort st. George, Chennai-600 009.
- 2 The Commissioner of Police,
Greater Chennai,
Vepery, Chennai-600 007
- 3 The Joint Commissioner of
Police,
Central Zone Chennai. Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of certiorarified mandamus to call for records on the file of the 2nd respondent in Connection with Charge Memo in PR No. 14/ PR 1 (2) CPC 2003 dated 01.03 and on the file of the 3rd respondent in connection with rejection Memo in Na.Ka. No. 171/ 7039 PAPI II mama/ 09 dated 29.04.2009 and quash the same and consequently direct the respondents to regularize the breaks in service by treating as duty period and grant all consequent service benefits of promotion as Head Constable, Special Sub Inspector of Police and then Inspector of Police on par with juniors and grant all monetary benefits including arrears of pay and pass order in supplementing the reinstatement with the benefits of grant to back wages and all attendant benefits with continuity of service.

For Petitioner : Ms.T.Aananthi
For Respondents : Mr.N.Srinivasan,
Addl. Govt. Pleader.

ORDER

By consent, the main writ petition itself is taken up for final disposal.

2. The petitioner has come up with the present writ petition, challenging the order of the second respondent in Connection with Charge Memo in PR No. 14/ PR 1 (2) CPC 2003 dated1.2003 and the third respondent in connection with rejection Memo in Na.Ka. No. 171/ 7039 PAPI II mama/ 09 dated 29.4.2009 and consequently, to direct the respondents to regularize the breaks in service by treating as duty period and grant all consequent service benefits of promotion as Head Constable, Special Sub Inspector of Police and then Inspector of Police on par with juniors and grant all monetary benefits including arrears of pay and pass order in supplementing the reinstatement with the benefits of grant to back wages and all attendant benefits with continuity of service.

3. The case of the petitioner, in brief, is as follows:-

(a) The petitioner is serving as Grade-I Police Constable at Velacherry Police Station. Originally, he was appointed as Constable Grade-II on 1.8.1984 and promoted as Grade-I Police Constable on 19.12.1996. While he was working at Triplicane Police Station (PEW), he was placed under suspension with effect from 3.12.2001 for the alleged receipt of illegal gratification, against which, he preferred O.A.No.1711 of 2002 before the Tamil Nadu Administrative Tribunal. In the said OA, initially, interim stay was granted on 13.3.2002 and finally, the said application was allowed and consequently, the petitioner was permitted to join duty on 13.1.2003. Thereafter, a charge memo dated01.2003 containing two charges was issued. After explanation dated 17.5.2004, an enquiry was conducted and a show cause notice dated 2.12.2004 for dismissal was issued on the ground that the petitioner was convicted in the case in Crime No.AC/2001 in C.C.No.16/2002 under Section 7 and 3(i)(d) read with 13(2) of Prevention of Corruption Act.

(b) Against the charge memo dated01.03, the petitioner preferred a writ petition before this Court in W.P.No.34225 of 2005, wherein interim stay was granted by this Court on 25.10.2005. As against the show cause notice dated 24.12.2004,

the petitioner preferred another writ petition in W.P.No.573 of 2005, wherein interim stay was granted on 7.1.2005 and the same was finally ordered on 9.3.2006 directing the petitioner to submit his explanation and further directed the respondents to consider his case. Thereafter, by order dated 12.4.2006, the petitioner was dismissed from service, against which, he preferred an appeal dated 11.5.2016.

(c) Subsequently, as against the order of conviction made in C.C.No.16 of 2002, the petitioner preferred an appeal in CrI.A.No.958 of 2004 and this Court allowed the said appeal by setting aside the conviction made in C.C.No.16 of 2002 and acquitted the petitioner from the criminal charges under Anti Corruption Act. Based on the said acquittal, the petitioner has been reinstated into service by order dated 15.12.2008.

(d) Consequent to the suspension, the petitioner was kept away from service from 3.12.2001 to 2.1.2003 and from 12.4.2006 to 14.12.2008 and the said periods ought to have been regularized with pay, arrears of salary, allowances and increments. Further, he is entitled to get promotion on par with his juniors. Hence, challenging the Charge Memo in PR No. 14/ PR 1 (2) CPC 2003 dated 01.03 and the rejection Memo in Na.Ka. No. 171/ 7039 PAPI II mama/ 09 dated 29.04.2009 and consequently, to direct the respondents to regularize the breaks in service by treating as duty period and grant all consequent service benefits of promotion as Head Constable, Special Sub Inspector of Police and then Inspector of Police on par with juniors and grant all monetary benefits including arrears of pay and pass order in supplementing the reinstatement with the benefits of grant to back wages and all attendant benefits with continuity of service, the petitioner has filed the present writ petition.

4. Today, when the matter was taken up for consideration, learned counsel appearing for the petitioner submitted that in identical situation, this Court in W.P.Nos.31054 and 31055 of 2013, by order dated 29.7.2016, allowed the said writ petitions. Hence, following the same, similar order could be passed in this writ petition also.

5. I have also heard the learned Additional Government Pleader, who has taken notice on behalf of the respondents.

6. Though the petitioner prayed for a larger relief, instead of giving such a positive direction, I am of the opinion, it would be appropriate to direct the respondents to consider the case of the petitioner in the light of the order of this Court dated 29.7.2016 made in W.P.Nos.31054 and 31055 of

2013.

7. Accordingly, without going into the merits of the claim made by the petitioner, this Court directs the petitioner to give a fresh representation to the second respondent along with a copy of this order within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same, the second respondent is directed to consider the said representation and pass appropriate orders on merits and in accordance with law and also in the light of the order of this Court dated 29.7.2016 made in W.P.Nos.31054 and 31055 of 2013, after giving personal hearing to the interested parties, if any, who may be adversely affected, within a period of six weeks thereafter. The writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

sbi

To

- 1 The Secretary to Government
of Tamil Nadu Home
Department Fort st. George Chennai-600 009
- 2 The Commissioner of Police
Greater Chennai Vepery Chennai-600 007
- 3 The Joint Commissioner of Police
Central Zone Chennai.

+1cc to Mr. P. Annanthi, Advocate, S.R.No.61081

cnr (CO)
md (8/11/2016)

W.P.No.33639 of 2016