

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.12.2016

CORAM

THE HON'BLE Mr. JUSTICE M.SATHYANARAYANAN

W.P.No.41640 of 2016

E.Krishnan

...Petitioner

-Vs-

1. Government of Tamilnadu,  
rep. By Secretary to Government,  
Home (Police) Department,  
Secretariat,  
Chennai- 600 009.
2. The Director General of Police,  
Chennai - 600 004.
3. The Superintendent of Police,  
Salem District,  
Salem.

...Respondents

This petition is filed under Article 226 of The Constitution of India praying to issue a Writ of Mandamus to direct the respondents to declare that the petitioner's father V.Elumalai (PC 722) had retired from service on 31.08.1993 (deemed retirement); to fix the pensionary benefits of his father consequent on his retirement on 31.08.1993 and to fix Family Pension to the petitioner's mother Tmt.E.Kamalam (due till her death on 03.12.2009) and to disburse the consequential monetary benefits with interest at 18% per annum to the petitioner herein

|                 |   |                                         |
|-----------------|---|-----------------------------------------|
| For Petitioner  | : | Mr.M.Ravi                               |
| For Respondents | : | Mr.P.Senthilvel,<br>Government Advocate |

O R D E R

By consent, the writ petition is taken up for final disposal. Mr.P.Senthilvel, learned Government Advocate accepts notice on behalf of the respondents.

2.The petitioner is the son of late P.Elumalai. The petitioner's father was initially enlisted as Police Constable, Grade II on 01.08.1954 and ever since the date of entry into service, he had rendered his service honestly and sincerely to the utmost satisfaction of his superiors. Further, it is stated that while his father served in the Prohibition Enforcement Wing, Mettur, he along with 30 other police officials from the rank of Additional Superintendent of Police to the rank of Police Constables including certain office staff were placed under suspension in the month of December 1990 - January 1991. The criminal prosecution was also launched under the provision of Prevention of Corruption Act at Salem under the Indian Penal Code. The father of the petitioner was placed under suspension from 15.12.1990 to 31.08.1993. During the pendency of the criminal case, his father passed away on 13.11.1997 and consequently, the criminal case and the departmental proceedings came to be abated and his suspension period from 15.12.1990 to 31.08.1993 was regularised by the proceedings made in D.O.No.1151/98 dated 22.10.1998 by the Superintendent of Police, Salem. As such, he must be deemed to have retired from service from 31.08.1993 with consequential pensionary benefits. The wife of V.Elumalai, the mother of the petitioner, namely E.Kamalam also died on 03.12.2009.

3. The grievance expressed by the petitioner is despite the proceedings of the Superintendent of Police, Salem, declaring the departmental proceedings as well as the criminal prosecution as abated, he is deprived of the benefits on account of want of regularisation of the period from 15.12.1990 to 31.08.1993. In this regard, he has also submitted a representation dated 12.09.2012, followed by a reminder dated 15.12.2014 to the first respondent. Since he is not favoured with any response, he has come forward by way of the present writ petition.

4. Mr.M.Ravi, learned counsel for the petitioner, has drawn the attention of the Court to the order made in W.A.No.1430 of 2013 in the case of The Secretary to Government of Tamilnadu, Home (Police) Department, Chennai -9 and 2 others vs. M.Jayapal and would submit that the respondent therein is also a co-delinquent and regularisation of period of suspension came to be ordered in terms of Sub Rule 9(b) of F.R. 54-B vide order passed in W.P.No.17361/2010 and it was put to challenge by the official respondent which includes the respondents 1 and 2 herein and the said appeal was also dismissed on 02.09.2013 and the concerned respondent was offered with all consequential benefits and there cannot be any impediment on the part of the respondents 1 and 2 to consider and dispose of the representation of the petitioner at an early date.

5. This Court heard the submission of Mr.P.Senthilvel, learned Government Advocate appearing for the respondents.

6. In the light of the fact that the father of the petitioner passed away on 13.11.1997 and the Superintendent of Police, Salem, also issued appropriate proceedings declaring the departmental proceedings as well as the criminal prosecution as abated, there cannot be any impediment on the part of the first respondent to regularise the period of suspension of the petitioner's father from 15.12.1990 to 31.08.1993 and pass appropriate orders. The judgment dated 02.09.2013 made in W.A.No.1430/2013 cited supra, wherein the respondents 1 and 2 herein were arrayed as the appellants 1 and 2, would also come to the aid of the petitioner.

7. The writ petition is disposed of directing the first respondent to consider and dispose of the petitioner's representation dated 12.09.2012 and the reminder dated 15.12.2014 on merits and in accordance with law, in the light of the observation made in the writ petition and also taking note of the judgment dated 02.09.2013 made in Writ Appeal No.1430 of 2013, within a period of twelve weeks from the date of receipt of a copy of this order and communicate the decision taken to the petitioner. No costs.

Sd/-

ASST. REGISTRAR

/TRUE COPY/

SUB ASST. REGISTRAR

To

1. The Secretary to Government,  
Home (Police) Department,  
Secretariat,  
Chennai- 600 009.
2. The Director General of Police,  
Chennai - 600 004.
3. The Superintendent of Police,  
Salem District,  
Salem.

+1 cc to Mr.M.Ravi, Advocate vide SR.NO. 71844  
+1 cc to GOVT. PLEADER, vide SR.NO. 72065

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NMI (CO)  
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