

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.02.2016

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.5938 of 2016

G.Muthukrishnan (SSI-43074)

... Petitioner

-Vs-

1. The Government of Tamil Nadu
rep.by its Secretary to Home Department
Fort St.George
Chennai 600 009

2. The Director General of Police
Kamarajar Salai
Mylapore
Chennai 600 004

3. The Additional Director General of Police (L&O)
Kamarajar Salai
Mylapore
Chennai 600 004

4. The Deputy Inspector General of Police
Ramanathapuram Range
Ramanathapuram

5. The Superintendent of Police
Ramanathapuram

... Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in PR No.23/1993 dated 24.05.1994 passed by the fifth respondent and which was confirmed by fourth respondent in the appeal petition in C.No.A4/7065/AP-24/94 dated 30.06.1994 and punishment modified by the third respondent in Rc.No.194008/AP.II(4)/94 dated 21.10.1994, which was confirmed by the second respondent in Rc.No.126952/AP.1(2)/2006 dated 04.12.2006 again which was confirmed by the first respondent in G.O.(2D) No.30 dated 30.01.2015 and quash the same and consequently direct the respondents to provide the arrears of salary to the punishment period and revise the service seniority to the petitioner.

For Petitioner : Mr.A.Rajaram

For Respondents : Mr.R.Vijayakumar
Additional Government Pleader

ORDER

This writ petition has been filed by Mr.G.Muthukrishnan challenging the impugned order passed by the Superintendent of Police, Ramanathapuram in PR No.23 of 1993 dated 24.05.1994, as confirmed by Deputy Inspector General of Police, Ramanathapuram in the appeal petition in C.No.A4/7065/AP-24/94 dated 30.06.1994, which was modified by the Additional Director General of Police (Law & Order) in Rc.No.194008/AP.II(4)/94 dated 21.10.1994, as confirmed by the Director General of Police in Rc.No.126952/AP.1(2)/2006 dated 04.12.2006 and finally confirmed by the first respondent Government in G.O.(2D) No.30 dated 30.01.2015, to quash the same with a consequential direction to the respondents to provide the arrears of salary to the petitioner for the punishment period by revising the service seniority.

2. Heard the learned counsel for the petitioner.

3. The petitioner suffered a departmental proceeding pursuant to the charge memo issued in P.R.No.23 of 1993 under Rule 3(b) of the Tamil Nadu Police Subordinate Services (Discipline & Appeal) Rules for the following delinquencies:-

- "(i) Reprehensible conduct in assaulting PC.1559 Thiagarajan with a torch light and caused bleeding injuries on his face and forehead on 7.11.92 at 21.45 hrs near the police station opposite to Kandanur Chatram.
- (ii) Having escaped from the police station on 7.11.92 at 22.30 hrs when an entry was being made in the O.D on the complaint of the above P.C."

Subsequently, the fifth respondent-Superintendent of Police, Ramanathapuram, on completion of the full enquiry, held that the petitioner, being a police officer, should set an example to others and should have acted politely. Instead of doing so, he acted high-handedly and assaulted a fellow police constable and tarnished the image of the police force. On this score, the Superintendent of Police came to the conclusion that keeping such a person in the force would certainly jeopardize the morale and image of the police force. Therefore, agreeing with the findings of the enquiry officer that the charges were proved beyond reasonable doubt, he dismissed the petitioner from service by order dated 24.5.94. As against that order, the

petitioner preferred an appeal before the Deputy Inspector General of Police, Ramanathapuram, who, in his proceedings dated 30.6.94, refused to interfere with the punishment awarded to the petitioner. Aggrieved by the same, the petitioner preferred a review petition before the Additional Director General of Police (Law & Order), Chennai, who, in his proceedings dated 21.10.94, after going through the review petition along with the connected records, modified the punishment into one of reduction in the time scale of pay by one stage for one year with cumulative effect.

4. Not satisfied with the modified punishment, the petitioner has preferred a mercy petition before the Director General of Police, Chennai. A perusal of the order passed by the second respondent shows that the petitioner tried to explain that there was a scuffle between him and the PC 1559 Thiagarajan, as the latter had snatched his torch light, and that in that scuffle the petitioner had caused bleeding injuries to the PC 1559 Thiagarajan. Therefore, accepting the deposition of PC 1559, the Director General of Police, Chennai, the second respondent herein, finding that the act of delinquency has been established, since the petitioner had attacked another colleague PC 1559 Thiagarajan and caused bleeding injuries, dismissed the mercy petition holding that the punishment of dismissal from service has already been modified into one of reduction in the time scale of pay by one stage for one year with cumulative effect and the same is not excessive. Finally, the said order has also been confirmed by the first respondent Government. When the authorities had already considered the mercy petition of the petitioner and rejected the same holding that the punishment of reduction in the time scale of pay by one stage for one year with cumulative effect is not excessive for the proven charges, the request of the petitioner for a direction to consider his mercy petition once again is far from acceptance. Accordingly, finding no grounds, the writ petition fails and it is dismissed. Consequently, W.M.P.Nos.5299 & 5300 of 2016 are also dismissed. No costs.

Sd/-

Assistant Registrar(AD I)

//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
Mylapore
Chennai 600 004

3. The Additional Director General of Police (L&O)
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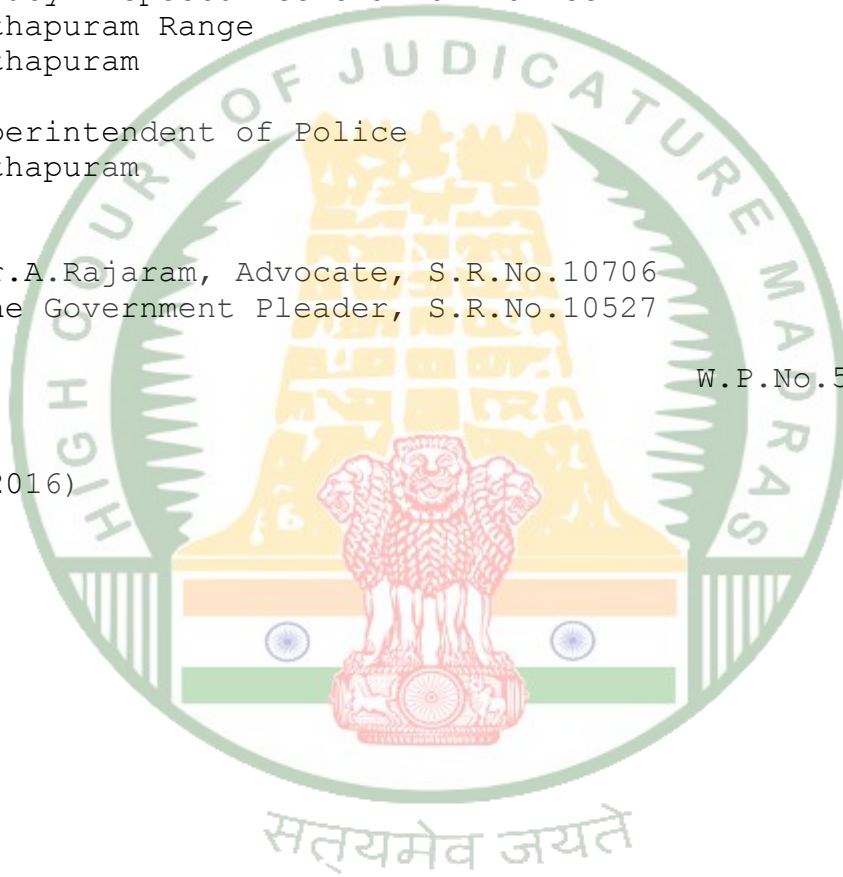
5. The Superintendent of Police
Ramanathapuram

+1cc to Mr.A.Rajaram, Advocate, S.R.No.10706

+1cc to the Government Pleader, S.R.No.10527

W.P.No.5938 of 2016

SV(CO)
CA(07/04/2016)



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