



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.09.2016

C O R A M

WEB COPY

THE HONOURABLE Dr.JUSTICE S.VIMALA

Writ Petition (MD) No.17925 of 2016

Paulraj

... Petitioner

Vs.

1.The State Rep. by its
Principal Secretary,
Government Home (Police) Department,
Fort St.George,
Chennai.

2.The Director General of Police,
D.G.P. Office,
Chennai.

3.The Inspector General of Police,
O/o. The Inspector General Office,
Chennai.

4.The Superintendent of Police,
Thoothukudi,
Thoothukudi District.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the Respondents to consider the petitioners representation dated 26.11.2015 and pay the compassionate allowance to the petitioner.

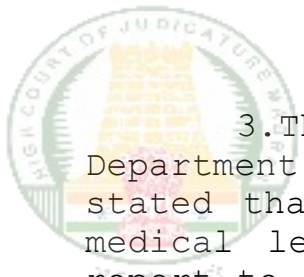
For petitioner .. Mr.P.T.Thiraviam

For Respondents .. Mr.M.Alagadevan
Special Government Pleader

O R D E R

This writ of Mandamus has been filed seeking direction to the respondents to consider the petitioner's representation, dated 26.11.2015 and to pay the compassionate allowance to the petitioner.

2.Heard the learned counsel for the petitioner and the Special Government Pleader for the respondents.



3. The case of the petitioner is that he entered into Police Department as Grade-II Police Constable on 12.09.1986. It is stated that as he was suffering from mental illness, he was on medical leave for some period. Thereafter, he was not able to report to duty. Since, he was not reporting duty, he was declared as deserter and a charge memo was issued under Section 3(b) of TNPSS (D&A) Rules, 1955. Following which, the Assistant Superintendent of Police, Tuticorin, imposed the punishment of removal from service, by order dated 15.05.2000.

4. The petitioner sent a representation on 26.11.2015 to the respondents seeking compassionate allowances for nearly 15 years. As the said representation was not considered, this writ petition has been filed.

5. It would be appropriate to consider the provisions, under which, compassionate allowances, is sanctioned. Rule 40 of the Tamil Nadu Pension Rules, 1978, provides for compassionate allowances and the Rule is extracted, for convenient reference of the official concerned, as under:-

"Compassionate Allowance.- (1) A Government servant who is dismissed or removed from service shall forfeit his pension and gratuity:

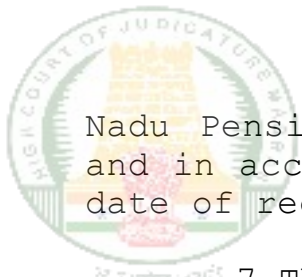
[Provided that the authority competent to dismiss or remove him from service may, if the case is deserving of special consideration, sanction a compassionate allowance not exceeding two-thirds of pension or gratuity or both which would have been admissible to him if he had retired on medical certificate:]

Provided further that no allowance shall be granted to an officer under the Rule-making control of the Government of India, other than those who are governed by All India Services (Death-cum-Retirement Benefits) Rules, 1958, without further sanction:

[Provided also that no compassionate allowance shall be granted in cases of Government servants dismissed or removed from service under the second proviso (a) to clause (2) of Article 311 of the constitution of India, for overt, anti-national activities such as sabotage, espionage and like.]

(2) A Compassionate allowance sanctioned under the proviso to sub-rule (1) shall not be less than the limit specified in sub-rule (5) of Rule 43."

<https://hcservices.ecourts.gov.in/hcservices/> of the submission made by the petitioner, the respondents are directed to consider the representation of the petitioner, dated 26.11.2015, in the light of Rule 40 of the Tamil



Nadu Pension Rules, 1978, and pass appropriate orders on merits and in accordance with law, within a period of six weeks from the date of receipt of a copy of this order.

WEB COPY

7. The writ petition is disposed of accordingly. No costs.

Sd/-

Assistant Registrar (Record)

/True copy/

Sub Assistant Registrar

To

Principal Secretary,

Government Home (Police) Department,

Fort St. George, Chennai.

2. The Director General of Police,
D.G.P. Office, Chennai.

3. The Inspector General of Police,
O/o. The Inspector General Office,
Chennai.

4. The Superintendent of Police,
Thoothukudi, Thoothukudi District.

+1 cc to M/s.P.T.Thiraviam, Advocate in SR.No.54090

rj2

CSL/EM-MPA/21.10.2016 :3P/6C

Writ Petition (MD) No.17925 of 2016
21.09.2016