

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.10.2017

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THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.27266 of 2017

K.Annamalai

.. 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 Superintendent of Police
Thiruvannamalai District
Thiruvannamalai .. Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus, directing the first respondent to consider and dispose the mercy petition within a stipulated time which was filed before him on 12.06.2017 by the petitioner.

For Petitioner :: Mr.A.Rajaram
For Respondents :: Mr.ERA.Premnath
Government Advocate

ORDER

This writ petition has been filed by Mr.K.Annamalai seeking a mandamus directing the first respondent to consider and dispose of the pending mercy petition within the stipulated time.

2. Learned counsel for the petitioner submitted that when the petitioner was serving as Head Constable, he was suspended pursuant to the issuance of charge memo and also for pendency of a criminal case against him for the offence under Sections 408, 409 and 477(A) of IPC. Although the petitioner was not found guilty by the learned Judicial Magistrate No.II, Vellore in C.C.No.51 of 2006 and got the benefit of acquittal on

21.12.2010, the departmental proceedings initiated against him under Rule 3(b) of the Tamil Nadu Police Subordinate Service (Discipline & Appeal) Rules, 1955 in P.R.No.42 of 2008 came to an end with the imposition of punishment of reduction in time scale of pay by one stage for one year and the period of reduction which shall not operate to postpone his future increment. Aggrieved by the same, the petitioner preferred an appeal before the Deputy Inspector General of Police, Vellore Range for cancellation of the said punishment, which was rejected. Against that the petitioner filed a review petition before the Director General of Police, Chennai, who also, having one through the service records of the petitioner and the reasoning for imposing the punishment of reduction in time scale of pay by one stage for one year, confirmed the same and rejected the review petition. Thereafter, the petitioner has filed a mercy petition on 12.6.2017 before the first respondent and the same is pending. The said mercy petition is sought to be disposed of by way of issuing a mandamus.

3. But this Court is not inclined to consider the request of the petitioner for considering his mercy petition. The reason is that he was chargesheeted for the offence under Sections 408, 409 and 477(A) of IPC on the file of the learned Judicial Magistrate No.II, Vellore in C.C.No.51 of 2006, however, the learned Judicial Magistrate No.II, Vellore has given the benefit of doubt to the petitioner. In the meanwhile, the departmental proceedings initiated against the petitioner under Rule 3(b) of the Tamil Nadu Police Subordinate Service (Discipline & Appeal) Rules, 1955 found him guilty of the charges and the aforementioned punishment was imposed, which has been confirmed by both the appellate and reviewing authorities. Therefore, this Court is not inclined to entertain the writ petition under Article 226 of the Constitution of India. Accordingly, the writ petition fails and it is dismissed. No costs.

/sd/-

Assistant Registrar

/True Copy/

Sub Assistant Registrar

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To

1. The Secretary to Government
Home Department
Fort St.George
Chennai 600 009

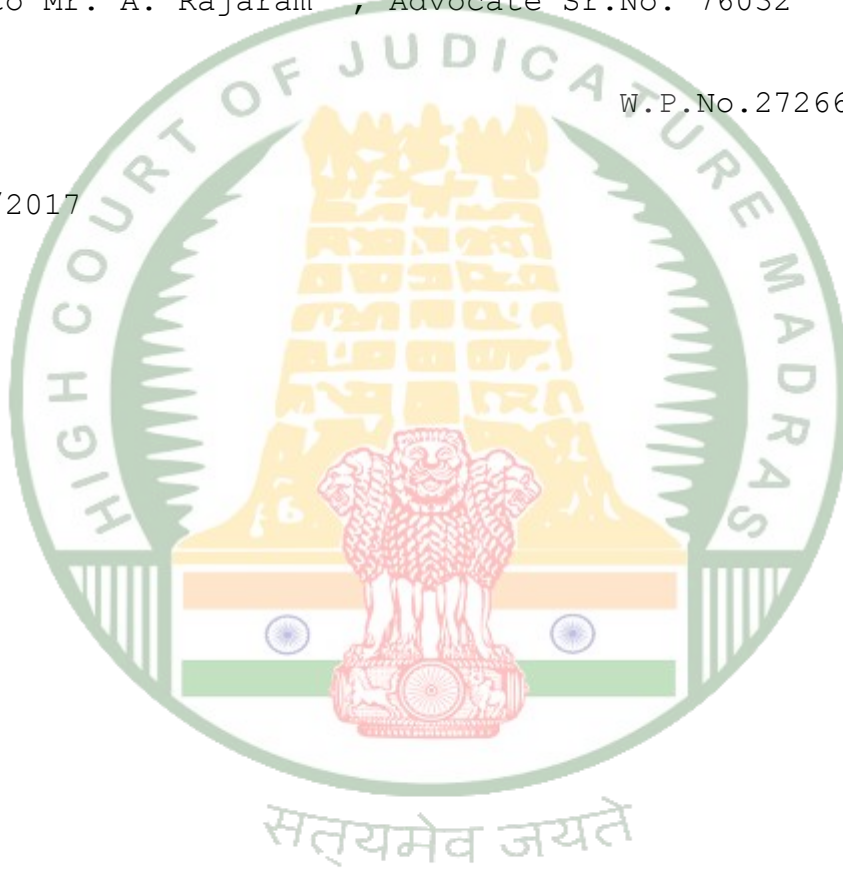
2. The Director General of Police
Kamarajar Salai
Mylapore
Chennai 600 004

3. The Superintendent of Police
Thiruvannamalai District
Thiruvannamalai

+1 CC to Mr. Govt., Pleader High Court, Madras Sr.No. 75704
+1 +1 CC to Mr. A. Rajaram , Advocate Sr.No. 76032

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MD: 21/11/2017



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