

In the High Court of Judicature at Madras

Dated : 11.07.2017

Coram :

The Honourable Mr.Justice S.M.SUBRAMANIAM

Writ Petition No.17456 of 2017

V.Srinivasan

...Petitioner

Vs

1. Director General of Police Chennai,
Kamarajar Salai, Chennai.
2. Deputy Inspector General of Police,
Villupuram Range,
Villupuram.
3. Superintendent of Police,
Villupuram.

...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Mandamus directing the third respondent pertaining to consider and pass orders on the petitioner's representation dated on 24.05.2016 with regard to pay and allowances for the unemployment period and revision of seniority.

For Petitioner : Mr.M.Ramdoss
For Respondents : Mr.K.Dhananjeyan
Special Government Pleader

ORDER

By consent, the main writ petition itself is taken up for final hearing at the admission stage itself.

2. The Writ petitioner is continuing in the post of Police Constable Grade-II in the Police Department. The learned counsel appearing for the petitioner contended that the writ petitioner will be satisfied, if a direction is given to consider the representation submitted by him on 24.05.2016 and to disposed of by the competent authorities.

3. Heard the learned counsel for the writ petitioner and the learned Special Government Pleader appearing for the respondents.

4. The facts in nutshell in this case is that disciplinary proceedings against the writ petitioner was instituted by the Department and a final order was issued by the Deputy Inspector General of Police, Villupuram Range on 14.10.2009, which is extracted below for better understanding of the facts :-

" Now, in the light of directions issued by the Hon'ble High Court Order dated 23.6.09 in W.P. 7080/06. I take a fresh look into this matter pertaining to PC 1426 V.Srinivasan. Considering his past services and his age and to give him an opportunity to mend his life for the remaining service the punishment of 'Dismissal from service' imposed against him is modified into that of, 'Postponement of increment for three years with cumulative effect'. As such, he is taken back for duty with immediate effect. The out of employment period spent by him will be treated as Eligible Leave including Extra-ordinary Leave to the extent necessary."

5. The grievance set out in this writ petition is that the period without employment, has to be regularized as duty. But the fact remains that while passing the final orders in the disciplinary proceedings, the authorities treated the period as eligible leave including Extra-ordinary Leave to the extent necessary. Hence, the writ petitioner ought to have challenged the same if he was not satisfied with the order passed by the disciplinary authority passed on 14.10.2009. Contrarily, he waited for about 8 years and now he is attempting to create a new cause of action by giving a representation in an artificial manner. No writ can be filed for the purpose of creating a new cause of action by seeking a direction to consider the representation from this court.

6. The writ petitioner is of the intention, to create a new cause of action, so that he can form another chain of litigation. In this regard, once the disciplinary proceedings were concluded and the period of absence was regularised under the rules, is left open to challenge the order and if such an order was not challenged within a permissible time, then the right of the writ petitioner lapses. More so, a person, who slept over his rights, cannot wake up one fine morning and knock the doors of this Court for remedy and such a lapsed right cannot be restored by sending a representation to the

authorities concerned and file a writ petition for a simple direction to consider the representation. Such action of the employees in approaching this Court under Article 226 of the Constitution of India is deprecated.

7. In this view of the matter it is clear that because of laches, the writ petition cannot be entertained with regard to the grievances set out in this writ petition and accordingly, the writ petition is liable to be dismissed on the ground of laches. Thus the writ petition stands dismissed. However no order as to costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

vv

To

1. Director General of Police Chennai,
Kamarajar Salai, Chennai.
2. Deputy Inspector General of Police,
Villupuram Range,
Villupuram.
3. Superintendent of Police,
Villupuram.

+1cc to M/s.M.Ramdoss, Advocate, S.R.No.48150

+1cc to the Government Pleader, S.R.No.49389

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CU(18/08/2017)