



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.08.2017

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

and

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.A(MD)No.1017 of 2017

Y.Samuel

... Appellant

Vs.

1.The Superintendent of Police,
Kanyakumari District at
Nagercoil.

2.The Deputy Superintendent,
Prohibition and Enforcement Wing,
Nagercoil, Kanyakumari District.

3.The Deputy Inspector General of Police,
Tirunelveli Range, Tirunelveli.

... Respondents

PRAYER: This Writ Appeal is filed under Clause 15 of Letters Patent, pleaded to set aside the order dated 08.02.2017 passed in WP(MD)No.3890 of 2010 on the file of this Court.

Prayer in WP(MD). 3890/ 2010 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a WRIT OF CERTIORARI to call for the order of the 3rd respondent made in C.No. C4/AP.110/2009 dated 14.12.2009 and the consequential punishment of reduction in rank as Gr.1 PC for a period of three years and the same shall not operate to postpone in increments made in A.S.O.No. 49 of 2009 L3/AP.22/2009, L3/50853/09 dated 31.12.2009 against the petitioner and quash the same.

For Appellant : Mr.S.Subbiah, senior counsel for
Ms.P.Jessi Jeeva Priya

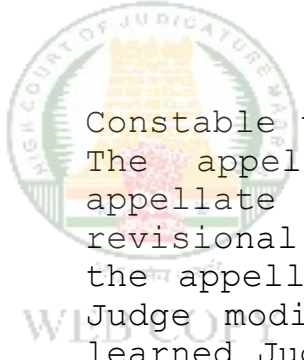
For Respondents : Mr.T.S.Md.Mohideen, AGP

J U D G M E N T

[Judgment of the Court was delivered by G.R.SWAMINATHAN, J.]

This writ appeal is directed against the order dated 08.02.2017 made in WP(MD)No.3890 of 2010.

2.Disciplinary action was initiated against the appellant vide charge memo dated 13.10.2008. The charges were found to be proved. The appellant was reduced from the rank of Head



Constable to Grade I Police Constable for a period of three years. The appellant herein challenged the said order before the appellate authority. The appellate authority as well as the revisional authority dismissed his appeal. Challenging the same, the appellant herein filed WP(MD)No.3890 of 2010. The learned Judge modified the punishment imposed on the appellant. The learned Judge held that the punishment of reduction to rank Grade I Police Constable shall be confined only till the appellant attained his superannuation ie., 31.05.2011. It was held that the appellant shall be entitled to get other benefits. Questioning the same this writ appeal has been filed.

3.The learned senior counsel appearing for the appellant pointed out that the modification is actually unworkable. This is because the pensionary benefits would be calculated based on the last pay drawn. When we posed the question to the learned Additional Government Pleader appearing for the respondents as to how the pension of the appellant was calculated, it was fairly submitted that he was not getting the pension of a Head Constable. Therefore we are inclined to modify the order dated 08.02.2017 made in WP(MD)No.3890 of 2010.

4.The punishment imposed on the appellant is modified to the effect that he shall be deemed to have retired only as a Head Constable. This direction is only for the purpose of enabling the writ petitioner / appellant to get appropriate pensionary and other retirement benefits payable to a Head Constable. The appellant shall not make any claim for salary arrears on this basis. This writ appeal is allowed as indicated above. No costs.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar

TO

1.The Superintendent of Police,
Kanyakumari District at Nagercoil.

2.The Deputy Superintendent,
Prohibition and Enforcement Wing,
Nagercoil, Kanyakumari District.

3.The Deputy Inspector General of Police,
Tirunelveli Range, Tirunelveli.

+1cc to M/S.N.SUBRAMANIAN, Advocate SR.No.72434

+1cc to Special Government Pleader, SR.No. 72637

Skm / Arul

MAS/MR-KKR/SAR1:07.09.2017:2P-6C