

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.12.2018

CORAM:

THE HONOURABLE Dr. JUSTICE S.VIMALA

W.P.No.33041 of 2018

S.Srinivasan

... Petitioner

versus

The Principal Secretary to Government,
Home Department,
Secretariat.

... Respondent

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of writ of mandamus, to direct the first respondent to consider the representation of the petitioner dated 04.07.2018 within the stipulated time that may be fixed by this Court.

For Petitioner : M/s.N.Umapathi

For Respondent : Mr.A.N.Thambidurai,
Special Government Pleader

ORDER

When the petitioner was working as a Deputy Superintendent of Police at Coimbatore District, two Muslim fundamentalists escaped from the custody of team, due to which, he was placed under suspension on 07.03.2002. Aggrieved over the same, the petitioner filed O.A.No.841 of 2003 on the file of the Tamil Nadu Administrative Tribunal and by an order dated 07.04.2003, the Tribunal directed the respondent to reinstate the petitioner. Challenging the same, the respondent filed a writ petition in W.P.No.1725 of 2004, which was dismissed on 27.04.2004. Thereafter, the petitioner was reinstated in service on 01.04.2005.

1.1. While so, the respondent, by an order on 23.02.2009, passed a final order in disciplinary proceedings, imposing punishment of pension cut at the rate of Rs.1,000/- p.m. for a period of six months. Thereafter, the respondent issued notice seeking consent to regulate the suspension period as eligible leave. In this regard, the petitioner made a representation dated 24.11.2009 to the respondent praying to treat the suspension period as duty for all purpose. However,

G.O.2D.No.516 dated 16.12.2016 has been passed by the respondent, by which, the proposal of the Director General of Police have been considered and it has been decided to regulate the period from 18.03.2002 to 20.04.2005 as a period not spent on duty as per FR54(B) (1) (5) (7), since the individual has not given his consent for regulating the suspension period as eligible leave and was requesting the said period as duty for all purpose. Thereafter, the petitioner made a representation dated 04.07.2018 to the respondent to review the order passed in G.O.2D No.516 dated 15.02.2016 by treating the period of suspension as period spent on duty. But, the said representation has not been considered. Hence, the present writ petition.

2. The learned counsel appearing for the petitioner submitted that the petitioner would have challenged the said G.O. and hence, sought permission of this Court to withdraw this writ petition with liberty to challenge the said G.O. He has also made an endorsement to that effect.

3. In view of the endorsement made by the learned counsel for the petitioner, this writ petition is dismissed as withdrawn, with liberty to the petitioner to challenge the said G.O., if so advised. No costs.

Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

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To

The Principal Secretary to Government,
Home Department,
Secretariat
Chennai

+1 cc to M/s.N.Umapathi, Advocate, SR No.87761

cp(co)
ssm(27/12/2018)

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