

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.01.2019

CORAM

THE HON'BLE DR.JUSTICE S.VIMALA

W.P.No.618 of 2019

and W.M.P.Nos.665 and 667 of 2019

N.Devendran

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Petitioner

Vs

1.The Director General of Police
O/o The Director General of Police
Kamarajar Salai, Mylapore, Chennai-4.

2.The Deputy Inspector General of Police
O/o The Deputy Inspector General of Police
Armed Police, Kilpauk, Chennai-10. Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records of the proceedings of the second respondent issued in B.O.No.07/2018 dated 24.07.2018 and the order issued by the first respondent in RC No.131780/CON V (2)/2017 dated 13.12.2018 and quash the same with the consequential direction directing the respondents to convert the charges framed under 17(b) to 17(a) of the Tamil Nadu Discipline and Appeal Rules in the light of the orders of the Government.

For Petitioner : M/s..Ravikkumar

For Respondents : Mr.A.N.Thambidurai Special
Government Pleader

ORDER

The petitioner was working as Senior Administrative Officer in the Police Department and is due to retire on 31.03.2019. He was issued with a show cause notice under Rule 17(a) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules dated 24.07.2018 for the alleged lapse that without performing leave travel concession he has claimed money of Rs.8840/- and travelled on Government Bus. It is the claim of the petitioner that after realising that he is not eligible to claim the amount

as he had travelled in a different mode, he has remitted money back to the government. It is the further claim of the petitioner that he had sent a representation on 23.10.2018 seeking certain documents, but without furnishing the same, the respondents have proceeded to appoint enquiry officer. He has sent another representation dated 20.11.2018, which was not considered. The grievance of the petitioner is that as against the orders of the Government dated 11.03.1993 and 04.05.1994 and as against the circular of the first respondent dated 09.11.2000, without even considering the gravity of the charges and without even considering the date of superannuation of the petitioner, the respondents have punished the petitioner at the last lap of his service, without converting the charges from 17 (b) to 17(a) of the Tamil Nadu Civil Services (D&A) Rules. It is also stated that the representation of the petitioner dated 05.07.2018 was rejected by the respondents on 13.12.2018 stating that the disciplinary action initiated against the petitioner is in oral enquiry stage and hence the request of the petitioner cannot be considered, which forced the petitioner to file the present writ petition for appropriate relief.

2. Learned counsel for the petitioner relies on the judgment of the Division Bench of this Court dated 07.12.2004 in W.P.No.19144 of 2004, wherein while dealing with similar facts and circumstances, this Court has categorically stated that if the allegations do not warrant the initiation of the proceedings under Rule 17(b) of the Rules which contemplates imposition of major penalties, the respondents ought to have considered the conversion of charges from Rule 17(b) to 17(a) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules.

3. Under the circumstances, following the principles laid down in the aforesaid judgment of the Division Bench of this Court, the respondents are directed to consider the representation of the petitioner dated 20.11.2018 in the light of the judgment of this Court dated 07.12.2004 in W.P.No.19144 of 2004, and to pass appropriate orders thereon, within a period of eight weeks from the date of receipt of a copy of this order. With the above directions, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

kst

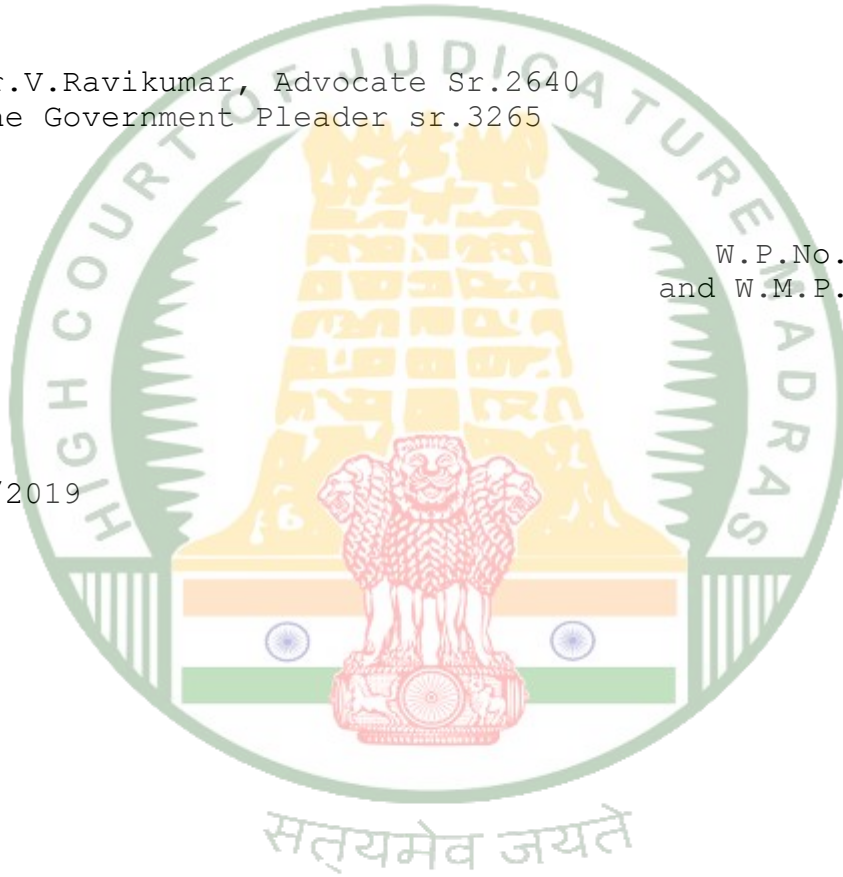
To

- 1.The Director General of Police
O/o The Director General of Police
Kamarajar Salai, Mylapore, Chennai-4.
- 2.The Deputy Inspector General of Police
O/o The Deputy Inspector General of Police
Armed Police, Kilpauk, Chennai-10.

+1cc to Mr.V.Ravikumar, Advocate Sr.2640
+1cc to the Government Pleader sr.3265

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