

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.01.2019

CORAM :

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.36040 of 2016 and
W.M.P.No.30968/2016

K.Murugan

..Petitioner
Vs

The Additional Commissioner of Police,
Headquarters,
Greater Chennai Police,
Vepery,
Chennai - 600 007.

..Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned order of the respondent in the proceeding in R.C.No.COP/Pen.1/04/5145/2014 dated 19.07.2016 and quash the same and directing the respondents herein to disburse his DCRG Rs.5,65,950/- (Five Lakhs Sixty Five Thousand and Nine Hundred and Fifty Rupees Only) along with the interest as per G.O.No.173 Finance (Pension) Department dated 01.04.2004; and grant the petitioner all consequential benefits.

For Petitioner : Mr.V.Karnan

For Respondent : Mrs. P.Rajalakshmi

Additional Government Pleader

ORDER

The petitioner Mr.K.Murugan SI (Retired) has come to this Court seeking to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned order passed in R.C.No.COP/Pen.1/04/5145/2014 dated 19.07.2016, quash the same and for consequential direction, directing the respondent herein to disburse his DCRG Rs.5,65,950/- (Five Lakhs Sixty Five Thousand and Nine Hundred and Fifty Rupees Only) as well as Earned leave salary along with the interest as per G.O.No.173 Finance (Pension) Department dated 01.04.2004.

2.The learned counsel appearing for the petitioner would submit that the petitioner, after entering the Chennai City Police as Grade-II Police Constable on 14.11.1979, has

retired as Sub-Inspector of Police in Armed Reserved, Chennai on 31.05.2014. He was working satisfactorily up to the stage of his retirement, but till date, the respondent has not come forward to disburse his DCRG amount Rs.5,65,950/- (Five Lakhs Sixty Five Thousand Nine Hundred and Fifty Rupees Only). Therefore, he made a representation dated 15.10.2015 to the respondent to disburse the said amount as well as earned leave salary along with interest as per G.O.No.173 Finance (Pension) Department dated 01.04.2004. Thereafter, the petitioner filed a writ petition in W.P. No.3531 of 2016 before this Court to consider his representation and the matter was heard by this court. Finally, a direction was given by this Court on 02.02.2016 directing the respondent to consider the representation of the petitioner dated 15.10.2015 on merits within a period of four weeks time. Pursuant thereto, the impugned order has been passed after issuing a Show Cause Notice. Challenging the same, the present Writ Petition has been filed.

3. The Learned counsel for the petitioner further assailing the impugned order would submit that the petitioner was placed under suspension during the period from 10.03.2002 to 07.07.2007 and was awarded with a punishment of postponement of increment for two years with cumulative effect by the Government in G.O.Ms.No. 2(D) 875, Home (Police II) Department dated 31.12.2007. After completion of the said punishment, his suspension period was settled as eligible leave. Therefore, a direction be issued to release the DCRG amount Rs.5,65,950/- (Five Lakhs Sixty Five Thousand Nine Hundred and Fifty Rupees Only) to him.

4. A detailed counter affidavit has been filed by the respondent.

5. The learned Additional Government Pleader appearing for the respondent would submit that the petitioner was wrongly paid with salary at the rate of Rs.15,490 + 4200 instead of Rs.11,470 + 4200 as on 01.01.2006 and also given further increments up to his retirement viz., 31.05.2014 on the basis of wrongly fixed pay. This has been noticed from service records, while issuing repromotion orders, after awarding the punishment of postponement of increment for two years with cumulative effect in CPO.No.1534 of 2010 dated 18.06.2010 in RC.No.1231/5/PR II (2)/2010. After noticing that the Grade Pay was erroneously taken twice and pay was fixed at Rs.15490 +4200 , the same is now revised to Rs.14,040/- + 4800(G.P) as on 01.07.2013. Thus, a sum of Rs.5,94,866/- being the over drawn pay and allowances and a sum of Rs.14,220/- being the House rent payable by him for the period from 01.06.2014 to 31.08.2014 have to be recovered from him and finally, the amount to be recovered from the petitioner has been arrived at Rs.6,09,086/- which has to be remitted to

the Government. While so, it was found that his DCRG is only Rs.5,65,950/- available with the respondent and that was adjusted. Still, a sum of Rs.43,136/- has to be recovered from the petitioner. Therefore, a direction be issued to the petitioner to pay the remaining amount.

6. Heard the learned Counsel on either side and I have also carefully gone through the typed set of papers.

7. A perusal of the typed set of papers shows that as rightly contended by the learned Additional Government Pleader for the respondent, the grade pay of the petitioner was erroneously fixed twice and pay was also wrongly fixed at Rs.15490 +4200 instead of Rs.11,470 + 4200 as on 01.01.2006 and further increments were also wrongly fixed up to his retirement viz., 31.05.2014 on the basis of the wrongly fixed pay. Thus, the petitioner has paid an excess amount of Rs.6,09,086/- and the same has to be remitted from him. Therefore, since a DCRG sum of Rs.5,65,950/- in respect of the petitioner is available with the respondent, the same was adjusted towards the said excess payment and still, it appears that the petitioner has to remit Rs.43,136/- to the Government. Hence, I find no merits in the Writ Petition.

8. In the result, the Writ Petition fails and the same is accordingly dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

-s/d-

Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

tsi

To

The Additional Commissioner of Police,
Headquarters,
Greater Chennai Police,
Vepery, Chennai - 600 007.

+1 CC to The Govt. Pleader sr 8151.

+1 CC to Mr.V.Karnan, Advocate sr 7828

W.P.No.36040/2016

SSD(CO)

SP(04/03/2019)