



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.03.2019

CORAM:

THE HONOURABLE MR.JUSTICE. R.MAHADEVAN

W.P. (MD) No.17812 of 2018

WEB COPY

M.Tamil Selvan

.. Petitioner

Vs.

1.The Secretary to Government of Tamil Nadu,
Home Department,
Chennai.

2.The Deputy Inspector General of Police,
Dindigul Range, Dindigul.

3.The Superintendent of Police,
Theni District.

.. Respondents

PRAYER : Writ Petition is filed under Article 226 of Constitution of India, to issue a writ of Certiorarified Mandamus calling for the entire records relating to impugned order of 3rd Respondent in P.R.No.182/94 issued on 10.01.1997 and the 2nd respondent impugned order dated 13.02.1998 in Rc.No.A5/Appeal/26/97 and the impugned order passed by the 1st respondent in G.O.(2D) No.487 dated 11.11.2016 and quash the same and consequently direct the Respondents to disburse all attendant and monetary benefits.

For Petitioner : Mr.A.Saravanan

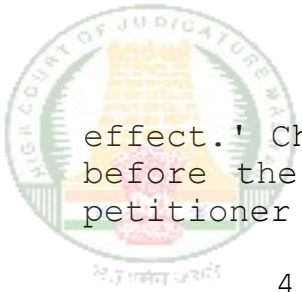
For Respondents : Mr.S.Angappan
Government Advocate

ORDER

This writ petition has been filed challenging the impugned orders of the respective respondents dated 11.11.2016, 13.02.1998 and 10.01.1997 and consequently direct the respondents to disburse all the attendant and monetary benefits to the petitioner.

2.Heard the learned counsel for the petitioner and the learned Government Advocate for the respondents.

3.According to the petitioner, the petitioner is serving as a Head Constable. While so, he was served with a charge memo in P.R.No.182 of 2004 by the third respondent. Subsequently, he was imposed with a punishment of reduction in the time scale of pay by three stages for three years with cumulative effect. Aggrieved by the same, the petitioner preferred an appeal before the second respondent, who modified the said punishment to the extent of 'reduction in pay by two stages for two years without cumulative



effect.' Challenging the same, the petitioner filed a mercy petition before the first respondent and the same was rejected. Hence, the petitioner is before this Court seeking the aforementioned relief.

4.The learned counsel appearing for the petitioner placing reliance upon an order passed by this Court in W.P(MD)No.944 of 2007 dated 21.04.2010 in the case of O.Soundarapandian Vs. The Director General of Police, Chennai - 600 004, submitted that this Court had already dealt with the case of a co-delinquent officer in detail and consequently allowed the writ petition, by setting aside the impugned orders passed against him. It is relevant to refer to the operative portion of the order, which reads as follows:

"8.The appellate authority found that at the time of bail, the witnesses were present and who have categorically stated that the complainant did not complain about torture. This fact is also corroborated as per the judgment of the criminal Court. While so, the appellate authority should have necessarily given a finding whether the allegations made by the complainant were proved and whether the facts establish the offence and whether there are sufficient grounds for taking action. Without giving such findings and also holding that the submission of PW1 seems to have been exaggerated, especially in the absence of medical evidence, the appellate authority should have set aside the punishment instead of passing an order for reduction of punishment. Since the appellate authority has not passed the order in accordance with Rule 6(1) of the Tamil Nadu Police Disciplinary Appeal Rules, I am of the view that the order of the appellate authority is liable to be set aside. It is further brought to the notice of this court that the petitioner has already retired from service.

9.Considering the above said facts, the impugned orders are set aside and the writ petition is allowed."

Hence, the learned counsel prayed for a similar order in this writ petition as well.

5.The learned Government Advocate appearing for the respondents has not seriously objected to the above said submission.

6.Considering the fact that an order had already been passed by this Court in respect of a co-delinquent officer in W.P (MD)No.944 of 2007 dated 21.04.2010 by setting aside the impugned orders passed against the petitioner therein and the petitioner herein also stands on the same footing and further taking note of the no objection expressed by the learned Government Advocate appearing for the respondents in considering the case of the petitioner, the relief sought by the petitioner can be granted in this writ petition.



7. In fine, this writ petition is allowed and the impugned orders passed by the respondents 1 to 3 dated 11.11.2016, 13.02.1998 and 10.01.1997 respectively are set aside. No costs. Consequently, WMP(MD) No.15679 of 2018 is closed.

Sd/-
Assistant Registrar

/TRUE COPY/

Sub Assistant Registrar(CS)

To

1. The Secretary to Government of Tamil Nadu,
Home Department,
Chennai.

2. The Deputy Inspector General of Police,
Dindigul Range, Dindigul.

3. The Superintendent of Police,
Theni District.

+1 CC to M/s.A.SARAVANAN, Advocate (SR-57801[F] dated 29/03/2019)

+1 CC to M/s.SPL GP (SR-58140[F] dated 01/04/2019)

W.P. [MD] .No.17812 of 2018
29.03.2019

DS(CS):07/05/2019/3P/6C