



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.10.2019

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THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**

W.P. (MD)No.1985 of 2014

and

M.P. (MD)Nos.1 and 2 of 2014

Muniyandi

:Petitioner

vs.

1.The Deputy Inspector General of Police,
Armed Police, Trichy Range,
Trichy.

2.The Commandant,
T.S.P.6th Battalion, Madurai.

:Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, praying to issue Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in C.No.E1/7007/2013, dated 10.09.2013 issued by the second respondent and quash the same and consequently, to direct the respondents herein to regularise the period of suspension from 22.07.2002 to 16.09.2002 based on the petitioner's representation, dated 08.07.2013 and to pay all allowance of salary for the period of suspension, ie., 56 days.

For Petitioner :Mr.F.Deepak

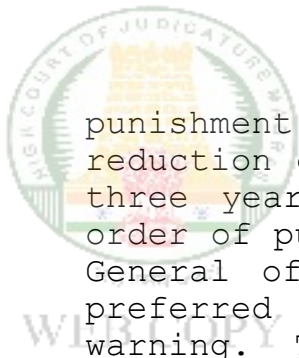
For Respondents :Mr.M.Jeyakumar

Additional Government Pleader

ORDER

This Writ Petition is filed to quash the impugned order passed by the second respondent, dated 11.09.2013 and consequently, to direct the respondents to regularise the period of suspension of petitioner from 22.07.2002 to 16.09.2002 and to pay all allowances of salary for the period of suspension.

2.The petitioner joined as Police Constable Grade-II in the year 1997 in Tamilnadu Special Police VI Battalion, Madurai. He was promoted as Police Constable Grade-I in the year 2007 and as Head Constable in the year 2012. The petitioner was subjected to disciplinary proceedings and during the period of disciplinary proceedings, he was placed under suspension for a period of 56 days. Subsequently, after the enquiry, the respondents awarded a



punishment of reduction in time scale of pay by three stages and the reduction of pay should operate to postpone the future increment to three years. It is admitted that the petitioner challenged the order of punishment by preferring an appeal and the Deputy Inspector General of Police, by order dated 25.03.2003, allowed the appeal preferred by the petitioner and the petitioner was let off with warning. There is no indication in the order of Appellate Authority to regularise the period, during which the petitioner was placed under suspension.

3. Pursuant to the order reducing the punishment, as one of warning, the petitioner submitted a representation to the respondents to regularise the period of suspension. The second respondent passed the impugned order rejecting the representation of the petitioner. Challenging the same, the present writ petition is filed. The period of suspension was earlier treated as period of leave without pay.

4. The learned Counsel for the petitioner submitted that the impugned order, dated 11.07.2013 is opposed to law, inasmuch as the period of suspension has to be regularised, as the original punishment was modified by letting the petitioner off with a warning. The learned Counsel for the petitioner further submitted that the respondent cannot treat the period of suspension as a period of leave without pay, when the punishment was set aside earlier. It is further contended that the period of suspension has to be regularised by enabling the petitioner to avail permissible leave, so that the petitioner's right, flows from the subsequent order, will be protected.

5. The second respondent filed a counter affidavit. It is stated by the second respondent that the petitioner did not prove his innocence before the appellate Authority and that the order modifying the punishment cannot be taken as if the petitioner was honourably exonerated from the charges.

6. The issue in this Writ Petition is whether the period of suspension (56 days), which was regularised earlier as leave without pay pursuant to the punishment, can be continued even after the cancellation of order of punishment subsequently. It is not in dispute that the petitioner has now been let off with simple warning. The period during which the petitioner was suspended cannot be treated as leave without pay, when the punishment was modified subsequently. The order of Appellate Authority while modifying the punishment has not touched about regularisation. Though the second respondent relied upon fundamental Rule 54(1)(a), this is not a case, in which the said rule can be applied. The order of punishment was modified and hence, the period of suspension has to be treated as period of eligible leave with pay.



7.As a result, this writ petition is allowed and the impugned order passed by the second respondent, dated 11.09.2013 is quashed. The respondents are directed to regularise the period of suspension of petitioner from 22.07.2002 to 16.09.2002, based on the petitioner's representation, dated 08.07.2013 and to pass appropriate orders within a period of eight weeks from the date of receipt of a copy of this order. The learned Counsel for the petitioner submitted that the pay, which was deducted, pursuant to the punishment has not been disbursed to the petitioner. In this regard, it is open to the petitioner give a such representation and the respondents shall consider the same as expeditiously as possible. No costs. Consequently connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS)

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To

1.The Deputy Inspector General of Police,
Armed Police, Trichy Range,
Trichy.

2.The Commandant,
T.S.P.6th Battalion, Madurai.

+1 CC to SPL GP (SR-94269[F] dated 24/10/2019)

+1 CC to Mr.F.DEEPAK, Advocate (SR-94104[F] dated 24/10/2019)

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VB(14.11.2019) 3P 5C