



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.11.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P.(MD) No.22794 of 2019

WEB COPY

C.Kasturi Gandhi

... Petitioner

-Vs-

1.The Principal Secretary to Government,
Home (Police-2) Department,
Fort St. George, Chennai-600 009.

2.The Director General of Police,
Law and Order, Office of Director General of Police,
Chennai.

3.The Additional Director General Police (Administration),
Additional Director General of Police Office,
Office of Director of General Police Campus,
Chennai.

4.The Commissioner,
Madurai City, Madurai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents herein to treat period of suspension ie., 26.05.2014 to 31.07.2015 spent by the petitioner as spent on duty for all the purpose and also to grant promotion to the post of Additional Superintendent of Police (Category-I) w.e.f., 29.09.2013 on par with the promotion of the petitioner's immediate junior and permit the petitioner to go on retirement with service, monetary and retiral benefits, including arrears, within the time limit fixed by this Court.

For Petitioner : Mr.AL.Kannan
For R1 to R3 : Mr.S.Dhayalan,
Government Advocate.

ORDER

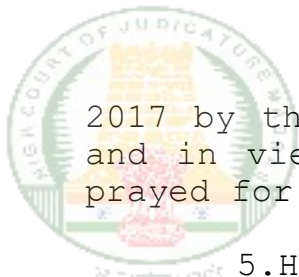
This Writ Petition is filed to direct the respondents to treat the period of suspension ie., 26.05.2014 to 31.07.2015 spent by the petitioner as spent on duty for all the purposes and also to grant promotion to the post of Additional Superintendent of Police (Category-I) w.e.f., 29.09.2013 on par with the promotion of the petitioner's immediate junior and permit the petitioner to go on retirement with service, monetary and retirement benefits, including arrears, within the time limit to be fixed by this Court.



2. According to the petitioner, while he was working as Deputy Superintendent of Police, the respondents initiated departmental disciplinary proceedings in TDP Case No.12A/2012, dated 31.05.2013 and TDP Case No.13 of 2009, dated 25.08.2009 under Rule 8(a) of the Tamil Nadu Civil Services (Disciplinary Proceedings Tribunal) Rules, 1955. The petitioner was issued with charge memo under Rule 3(b) and further 3(a) of the Tamil Nadu Police Subordinate Service (Discipline and Appeal) Rules. Challenging the said proceedings, the petitioner has filed three Writ Petitions. On the other hand, a criminal case has been registered by the CBI for the offences under Sections 120B, r/w Sections 342, 365, 302, 193 and 201 IPC. In the meantime, the petitioner was suspended from service by issuing G.O. (2D)No.221, Home (Police-2) Department, dated 28.06.2014. While so, he attained the age of superannuation on 31.07.2015. Due to pendency of the criminal case and departmental proceedings, the petitioner was not allowed to retire from service. Therefore, the petitioner and one K.Govindaraj, who was the co-delinquent in the departmental proceedings, have filed Writ Petitions before this Court. This Court, by the common order dated, 20.04.2016, has allowed the said Writ Petitions and quashed the departmental proceedings and criminal case. Accepting the order of this Court, the first respondent, by issuing G.O.(2D)No.244, Home (SC) Department, dated 04.08.2017 and G.O.(2D)No.525, Home (Police-2) Department, dated 29.12.2016, has dropped the disciplinary proceedings in TDP Case No.12A/2012, dated 31.05.2013 and TDP Case No.13 of 2009, dated 25.08.2009. Subsequently, all benefits and promotions were given to the said K.Govindaraj. However, the petitioner has deprived of all the benefits and promotion on the ground of pendency of the criminal case initiated against him. Subsequently, the petitioner was acquitted from the criminal case, by the judgment dated 21.08.2009, after full fledged trial in S.C.No.139 of 2017, on the file of the 1st Additional Assistant Session Court, Trichy. Therefore, the petitioner gave representation dated 10.10.2019 to treat the period of suspension from 26.05.2014 to 31.07.2015 as duty for all the purposes and grant promotion to the post of Additional Superintendent of Police (Category-I) w.e.f., 29.09.2013 on par with his junior, namely, R.A.Ambikapathy and permit him to go on retirement with all arrears and retirement benefits. However, the same has not been considered. Hence, the petitioner has come out with the present Writ Petition.

3. The learned counsel appearing for the petitioner contended that no disciplinary proceedings or criminal case are pending against the petitioner and therefore, prayed for allowing this Writ Petition.

4. The learned Government Advocate appearing for the respondents 1 to 3, on instructions, submitted that the respondents have decided to file an appeal against the order of acquittal of the



2017 by the learned 1st Additional Assistant Sessions Judge, Trichy and in view of the same, the petitioner cannot be considered and prayed for dismissal of the Writ Petition.

5. Heard the learned counsel appearing for the petitioner, the learned Government Advocate appearing for the respondents 1 to 3 and perused the materials available on record carefully.

6. From the materials on record and the facts stated above, it is seen that the petitioner was not allowed to retire from service and was not given promotion and other benefits, due to the pendency of the disciplinary proceedings and criminal proceedings. This Court, by the order dated 20.04.2016, has quashed the disciplinary proceedings and accepting the said order, the first respondent has also dropped the disciplinary proceedings. Subsequently, the petitioner has acquitted in the criminal case, by the judgment dated 21.08.2019 made in S.C.No.131 of 2017. Inasmuch as no disciplinary proceedings and criminal proceedings are pending against the petitioner, the respondents are directed to pass order, taking into consideration the Government Orders in G.O.(2D)No.244, Home (SC) Department, dated 04.08.2017 and G.O.(2D)No.525, Home (Police-2) Department, dated 29.12.2016, whereby disciplinary proceedings are dropped and acquittal of the petitioner in the criminal case, by the judgment dated 21.08.2019 made in S.C.No.131 of 2017 on the representation of the petitioner dated 10.10.2019, within a period of eight weeks from the date of receipt of a copy of this order.

7. With the above direction, this Writ Petition stands disposed of. No costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS)

Myr

To

1. The Principal Secretary to Government,
Home (Police-2) Department,
Fort St. George, Chennai-600 009.
2. The Director General of Police,
Law and Order, Office of Director General of Police,
Chennai.



3.The Additional Director General Police (Administration),
Additional Director General of Police Office,
Office of Director of General Police Campus,
Chennai.

+1 CC to Spl.GP (SR-97279[F] dated 11/11/2019)

+1 CC to Mr.AL. KANNAN, Advocate (SR-97695[F] dated 12/11/2019)

W.P. (MD) No.22794 of 2019
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