



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.09.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P. (MD) No.15138 of 2017

A.Rajadurai

... Petitioner

-Vs-

1.The Principal Secretary to Government
Fort St.George
Chennai

2.The Superintendent of Police
Kanniyakumari District
Nagercoil

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents 1 and 2 to consider the petitioner's representation, dated 27.04.2017 and further to direct the respondents to disburse his salary which was deducted without following G.O(Ms).No.637, dated 03.08.2009.

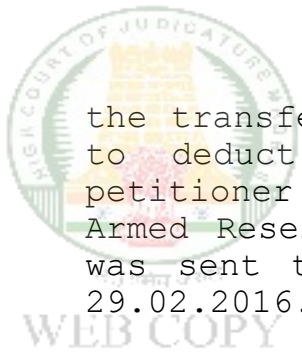
For Petitioner : Mr.V.Rajiv Rufus

For Respondents : Mr.C.M.Mari Chellaiah Prabhu
Additional Government Pleader

ORDER

The writ petition has been filed for a direction to the respondents 1 and 2 to consider the petitioner's representation, dated 27.04.2017 and to disburse his salary, which was deducted without following G.O(Ms).No.637, dated 03.08.2009.

2.According to the petitioner, he was promoted as Head Constable in the Tamil Nadu Special Police on 12.12.1993. He was under pay band of basic pay of Rs.1200/- and other benefits and he was transferred to Armed Force Unit, Ramanathapuram. When the Head Constable (Armed Unit) transferred from Tamil Nadu Special Police to Armed Reserve Unit, their rank and salary will be reduced into lower rank. Many of the affected persons have filed Writ Petitions before this Court and the Administrative Tribunal. Based on the orders passed by this Court and the Tribunal, the first respondent issued G.O.(Ms).No.637, dated 03.08.2009. By the said G.O., the salary of



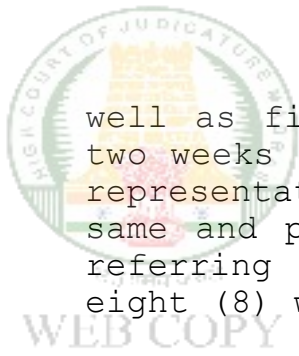
the transferred Head Constable was protected and it was decided not to deduct any salary even after transfer. Subsequently, the petitioner was transferred from Ramanathapuram Armed Reserve Unit to Armed Reserve Unit, Kanyakumari District and later, the petitioner was sent to serve in the Local Police Station and he retired on 29.02.2016.

3. As per G.O.(MS).No.637, dated 03.08.2009, the salary of the petitioner has to be protected and should not be deducted. In spite of the said G.O, the petitioner's salary was deducted and paid. Hence, the petitioner sent various representations to the respondents, but no action has been taken so far. Many of the co-employees of the petitioner made representations to the second respondent and got benefit, as per G.O.(MS).No.637, dated 03.08.2009. But, the salary of the petitioner has not been paid, which was deducted without following the Government Order. Therefore, the petitioner gave representation on 24.07.2017 to the respondents, but no order has been passed. Hence, the petitioner has come out with the present Writ Petition.

4.The second respondent filed a counter affidavit and denied the various averments made by the petitioner. The learned Additional Government Pleader submitted that when the petitioner was transferred from Tamil Nadu Special Police to Armed Reserve Unit, he was drawing only a sum of Rs.920/- as basic pay. In view of the same, his salary was fixed properly and no amount was deducted. In the counter affidavit, the second respondent has given the details of various transfers and promotion and pay fixation of the petitioner. The second respondent has also stated that the representation of the petitioner was considered and a memorandum, dated 17.08.2017 was issued and hence, he prays for dismissal of this Writ Petition.

5.Heard Mr.V.Rajiv Rufus, learned counsel appearing for the petitioner and Mr.C.M.Mari Chellaiah Prabhu, learned Additional Government Pleader appearing for the respondents.

6.According to the petitioner, he was drawing a sum of Rs.1200/- as basic pay, while he was transferred to Armed Reserve Unit. On the other hand, it is the contention of the second respondent that the petitioner was drawing salary in the scale of pay of Rs.920/- only. Based on the said basic pay, the petitioner's salary was fixed and no amount was deducted from the salary of the petitioner and no amount was due to the petitioner. It is the contention of the second respondent that there is no entries in Service Register with regard to promotion of petitioner and fixation of salary as basic Rs.1200/- . In view of the rival contentions of the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents, to meet the ends of justice, the petitioner is directed to give fresh representations including the documents to prove his promotion as



well as fixation of scale of pay of Rs.1200/-, within a period of two weeks from the date of receipt of a copy of this order. On such representation, the second respondent is directed to consider the same and pass orders on merits and in accordance with law without referring the memorandum, dated 17.08.2017, within a period of eight (8) weeks, thereafter.

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

Sd/-

Assistant Registrar (AD-I)

// True Copy //

Sub Assistant Registrar(CS)

msa

To

1.The Principal Secretary to Government
Fort St.George
Chennai

2.The Superintendent of Police
Kanniyakumari District
Nagercoil

+1 CC to M/s.V.RAJIV RUFUS, Advocate (SR-88774[F] dated 24/09/2019)

+1 CC to M/s.GP (SR-89387[F] dated 25/09/2019)

W.P.(MD) No.15138 of 2017
24.09.2019

JMN(30.10.2019) 3P : 6C