

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.02.2020

CORAM:

THE HONOURABLE MR.JUSTICE D. KRISHNAKUMAR

W.P.Nos.11381, 11382 and 11387 to 11389 of 2013 and
M.P.Nos.1 & 1 of 2013

1.S.Muruganandam	..Petitioner in WP.11381/2013
2.K.Vellaimunian	..Petitioner in WP.11382/2013
3.A.Durairaj	..Petitioner in WP.11387/2013
4.S.Siva Gandhi	..Petitioner in WP.11388/2013
5.V.G. Sarangapani	..Petitioner in WP.11389/2013

Vs

1. Government of Tamil Nadu,
represented by its Secretary to Government,
Home (Police) Department, Secretariat,
Chennnai-600 009.

2.The Director General of Police,
Chennai - 600 004.

3.The Superintendent of Police,
Salem District, Salem.

...Respondents in WP Nos.11381,
11382 & 11388/2013

...Respondents 1 to 3 in WP
11387/13 & 11389/13

4.The Superintendent of Police,
Namakkal.

...4th Respondent in WP Nos.11387
& 11389/2013

Prayer in W.P.No.11381 of 2013:- Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the respondents to regularize the period of suspension of the petitioner from 15.02.1990 to 19.09.1993 and the period of non-employment from 13.07.1999 to 31.05.2000 as duty for all purposes and to disburse the consequential monetary benefits with interest at 18% per annum as per ratio laid down that the Judgment rendered by the High Court dated 09.04.2012 in W.P.No.17360 of 2010 preferred by a similarly placed person namely M.Jayabal has to be extended to

the petitioner herein.

Prayer in W.P.No.11382 of 2013:- Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the respondents to regularize the period of suspension of the petitioner from 18.01.1991 to 19.09.1993 and the period of non-employment from 15.07.1999 to 31.01.2000 as duty for all purposes and to disburse the consequential monetary benefits with interest at 18% per annum as per ratio laid down that the Judgment rendered by the High Court dated 09.04.2012 in W.P.No.17360 of 2010 preferred by a similarly placed person namely M.Jayabal to the petitioner herein.

Prayer in W.P.No.11387 of 2013:- Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records of the third respondent relating to order in D.O.No.1643 of 2007 [C.No.H1/46440/2000] dated 31.12.2007 and quash the same in so far as it relates to denial of pay and allowances, and to issue consequential directions to the respondents to disburse the back wages for the period of suspension from 15.01.1990 to 21.02.1994 and out of employment period from 15.07.1999 to 03.12.2002 and consequential monetary benefits with interest at 18% per annum as per ratio laid down that the Judgment rendered by the High Court dated 09.04.2012 in W.P.No.17360 of 2010 preferred by a similarly placed person namely M.Jayabal to the petitioner herein.

Prayer in W.P.No.11388 of 2013:- Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records of the third respondent relating to order in D.O.No.1643 of 2007 [C.No.H1/46440/2000] dated 31.12.2007 and quash the same in so far as it relates to denial of pay and allowances, and to issue consequential directions to the respondents to regularize the period of suspension of the husband of the petitioner from 15.12.1990 to 10.07.1993 and the period of non employment 13.07.1999 to 03.12.2002 as duty for all purposes and to disburse the consequential monetary benefits with interest at 18% per annum as per ratio laid down that the Judgment rendered by the High Court dated 09.04.2012 in W.P.No.17360 of 2010 preferred by a similarly placed person namely M.Jayabal has to be extended to the husband of the petitioner herein.

Prayer in W.P.No.11389 of 2013:- Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records of the third respondent relating to order in D.O.No.1643 of 2007 [C.No.H1/46440/2000] dated 31.12.2007 and quash the same in so

far as it relates to denial of pay and allowances, and to issue consequential directions to the respondents to disburse the back wages for the period of suspension from 16.12.1990 to 15.06.1996 and out of employment period from 15.07.1999 to 03.12.2002 and consequential monetary benefits with interest at 18% per annum as per ratio laid down that the Judgment rendered by the High Court dated 09.04.2012 in W.P.No.17360 of 2010 preferred by a similarly placed person namely M.Jayabal to the petitioner herein.

For Petitioner : Mr.M.Ravi
(in all WPs)

For Respondents : Mr.J.Ramesh
(in WP.11381 & 11382/2013) Additional Government Pleader

For Respondents : Mr.S.Thangavel
(in WPs.11387 to 11389/2013) Special Government Pleader

COMMON ORDER

As the prayer sought for in all the writ petitions are one and the same against the very same respondents, all the writ petitions are disposed of by a common order;

2. The writ petitioners challenges in the writ petitions against the order passed by the third respondent vide D.O.No.1643 of 2007 (C.No.H1/46440/2000) dated 31.12.2007 and also for mandamus, directing the respondents to regularize as the duty for all employees to disburse the consequential monetary benefits.

3. According to the writ petitioners, they were working as Police Constable, Grade-I, from 01.06.1963 and thereafter, they retired from service on 31.05.2000. While they were serving in Prohibition Enforcement Wing, Mettur, the petitioners, along with 30 other police officials from the rank of Additional Superintendent of Police to the rank of Police Constables including some staff in ministerial service were placed under suspension by order No.B1/11875 90-2 (R.O.No.852/90) dated 08.12.1990 of the Deputy Inspector General of Police, Vellore Range. Further, criminal case was also initiated against all of them before the Chief Judicial Magistrate, Salem, under Sections 120-B IPC r/w Section 13(2) r/w sec.13(1)(a) and 13(1)(d) of the Prevention of Corruption Act. The petitioners were arrayed as accused persons in C.C.No.152 of 1990. By judgment dated 07.05.1999 in S.C.No.152 of 1990, the Chief Judicial Magistrate, Salem convicted and sentenced to undergo one year rigorous imprisonment each and also imposed a fine of Rs.1,000/-on each.

Pursuant to the said conviction, the petitioners preferred an appeal in CrI.A.No.386 of 1999 on the file of this Court. By a common judgment dated 30.04.2002 in CrI.A.Nos.386 and 393 and 444 of 1999, this Court acquitted them of the offences under Section 120-B IPC r/w Sec.13(2), r/w Sec.13 (1)(a) and 13(1)(d) of the Prevention of Corruption Act. Subsequently, based on the orders issued by the second respondent in Memo No.107724/Con.1 (2)/90 dated 12.11.2002, the dismissal order passed against them was cancelled and the petitioners were retired from service on 31.05.2000.

4. According to the writ petitioners, in respect of one K.Ramados, the then Additional Superintendent of Police, Prohibition Enforcement Wing, Mettur, Salem District, who is a co-accused in the above criminal case along with the petitioner and others, the Government have passed orders in G.O.Ms.No.453, Home (Police-A) Department, dated 17.03.2004 regularizing the period of suspension from 20.01.1991 to 03.11.1993 and from 02.11.1993 to 30.11.1993 as duty period under Rule 54(B) of the Fundamental Rules of the State of Tamil Nadu. In para No.4 of the Government Order, the Government have ordered that the pay and allowances due to one K.Ramados for the aforesaid period be disbursed after adjusting the subsistence allowance already drawn by them. Hence, the writ petitioners being similarly placed persons, are also entitled to the said benefits granted by the Government under the aforesaid G.O. Further, by judgment dated 30.04.2002 made in CrI.A.No.386 of 1999, the petitioners were acquitted from all the charges framed against them. In the case of one P.Swaminathan, against whom conviction was confirmed by the Hon'ble Supreme Court, the Superintendent of Police, Salem in his D.O.No.1605/07 (Na.Ka.No.R1/46947/07) dated 20.12.2007 has passed an order, allowing disbursement of monetary benefits for the suspension period and non-employment period, by re-fixing their pay and allowances granting increments. That apart, in the case of co-accused M.Jayabal, by judgment dated 09.04.2012 in W.P.No.17360 of 2010, this Court quashed the order dated 23.08.2007 passed by the Deputy Inspector General of Police, Coimbatore, denying the back wages to the petitioner therein and granted the relief of back wages. While similarly placed employees involved in the same criminal proceedings had been given the benefit of back wages for the suspension period and non-employment period, the petitioners are entitled to the same benefits. Hence, the petitioners have submitted a detailed representation dated 15.09.2012 requesting to regularize the suspension period and non-employment period and to disburse the consequential monetary benefits with interest, apart from revising the pensionary benefits and the said representation is still pending before the authority concerned. Therefore, the writ petitioners have come forward with the present writ petitions before this Court.

5. The learned Additional Government Pleader and Special Government Pleader appearing for the respondents submitted that the said representation will be considered and appropriate orders will be passed by the concerned authority in accordance with law.

6. Considering the aforesaid background reasons and the submissions made by the learned counsel for the petitioner that the similarly placed persons were granted monetary benefits, the authority concerned has to grant the said benefit also for the petitioners by regularizing the period of suspension and non-employment period and to disburse the consequential monetary benefits with interest, apart from revising the pensionary benefits, this Court is of the considered view that the petitioners' representation has to be considered in proper perspective and appropriate orders to be passed by the respondents on merits in accordance with law, as expeditiously as possible, at any rate, within a period of twelve weeks from the date of receipt of a copy of this order. The writ petitioners shall furnish a copy of the representation along with the order copy.

7. With the above directions, the writ petitions are disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

msm

To

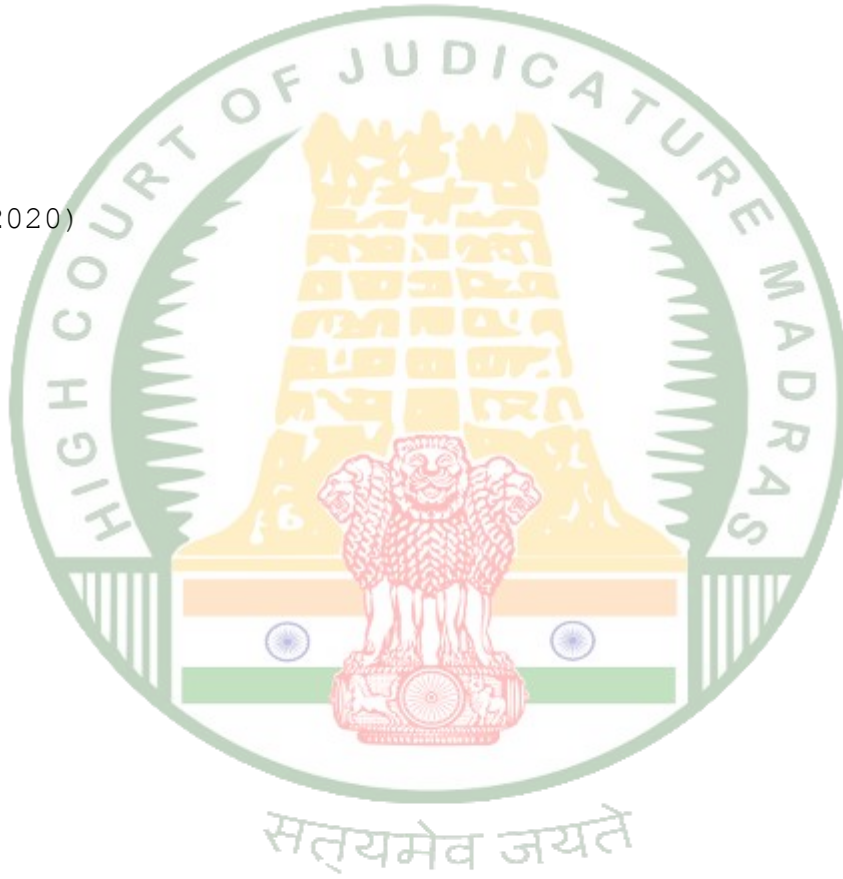
1. The Secretary to Government
Government of Tamil Nadu,
Home (Police) Department, Secretariat,
Chennnai-600 009.
- 2.The Director General of Police, Chennai - 600 004.
- 3.The Superintendent of Police, Salem District, Salem.

4.The Superintendent of Police, Namakkal.

+1cc to Government Pleader, Sr.No.10398

W.P.Nos.11381, 11382 and 11387 to 11389 of 2013 and
M.P.Nos.1 & 1 of 2013

LN (CO)
GS (25/08/2020)



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