

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.11.2020

CORAM

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

W.P. 12527 of 2007
(O.A.No.2958 of 2003)

N.Sivakumar

...Petitioner

Versus

The Deputy Commissioner of Police,
Armed Reserve, Chennai-8

...Respondent

PRAYER: Originally this petition has been filed as Original Application No.2958 of 2003 before the TamilNadu Administrative Tribunal at Chennai and after abolition of TNAT, petition has been transferred and numbered as W.P.No.12527 of 2007.

Writ petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records connected with memo issued in Na.Ka.No.244/57106/PaPi.5(1)/2003 dated 16.08.2003 on the file of the respondent and set aside the same and consequently to direct the respondent to sanction the arrears of pay from 28.05.98 to 30.04.2002.

For Petitioner : Mr.S.Ilamvaludhi
For Respondent : Mr.P.Chinnadurai
Additional Government Pleader

O R D E R

The petitioner has filed Application before the Tamilnadu Administrative Tribunal, Chennai in the year 2003 in O.A.No.2958 of 2003. Subsequently, due to abolition of the Administrative Tribunal, the matter has been transferred to this Court and renumberd as W.P.No.12527 of 2007.

2. This Writ Petition has been filed challenging the order passed by the respondent in Na.Ka.No.244/57106/PaPi.5(1)/2003 dated 16.08.2003 and direct the respondent to sanction the arrears of pay from 28.05.98 to 30.04.2002

3. The case of the petitioner is that he entered into service as Police Constable in the year 1988 and he was promoted as Grade I Police Constable in the year 1996. Based on the

criminal case in Crime No.921/97 registered by the crime branch for the offence punishable under section 467, 468, 471 and 428 of IPC, the petitioner was placed under suspension. But later that was withdrawn and a charge memo was issued under Rule 3(b) of Tamil Nadu Police Subordinate Service Rules in PR.No.61/Tha.Pi.2(1)2000. The petitioner was subsequently exonerated from the entire charges and promoted to the post of Head Constable, from the date of his immediate Junior was promoted. The petitioner further submits that by proceedings issued by the Commissioner of Police in P.R.No.61/PR.11(2)/2000, it was stated that the period of suspension 16.07.1997 to 24.09.1999 will be treated as duty. There the petitioner is entitled to the arrears of pay and allowances as sought for in the prayer.

4. The learned Special Government Pleader appearing for the respondent would submit that there is no merit in the Writ Petition and the petitioner is not entitled for arrears of salary.

5. A perusal of the entire materials available on record would go to show that based on the charges levelled against the petitioner, departmental proceedings conducted. Criminal charges also levelled against the petitioner. He was suspended from service on 17.07.1997. However, after departmental enquiry, he was reinstated into service on 24.09.1999 and he was promoted as Head Constable in the year 2002 retrospectively from 1998. In the impugned order dated 16.08.2003, it is clearly stated that in view of the retrospective promotion given and as per Government Order No.985, he has been given salary for the post of Head Constable from 19.09.1991 to 28.05.1998 and hence, the arrears of salary cannot be paid from 28.05.1998 to 30.04.2002. In the light of the above, this court does not find any infirmity in the impugned order dated 16.08.2003 and the writ petition has no merits. Accordingly, this Writ Petition is dismissed. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To
The Deputy Commissioner of Police,
Armed Reserve, Chennai-8

+1cc to the Government Pleader, S.R.No.36070

W.P. 12527 of 2007

PA(CO)
RV(11/12/2020)