

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.11.2020

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

WRIT PETITION NO.7528 OF 2013

K.Seshadri

... Petitioner

vs.

1. The State of Tamil Nadu,
represented by its Secretary to Government,
Home Police V Department,
Fort St.George, Chennai 600 009.
 2. The Director General of Police,
Chennai 600 004.
 3. The Deputy Inspector General of Police,
Kancheepuram Range,
Kancheepuram.
 4. The Superintendent of Police,
Kancheepuram.
- Respondents

Prayer:-

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Mandamus, directing the Respondents to regularize the services of the Petitioner between the period 27.05.2005 till 16.05.2011 as duty period with all service and monetary benefits in view of G.O.(2D) No.190, dated 12.05.2011 and consequently upgrade the post of the Petitioner as Special Sub-Inspector in Kancheepuram District notionally with effect from 12.03.2009 giving monetary benefits for the Petitioner in the upgraded post in the scale Rs.5300-150-8300 with effect from 01.06.2008 and to pay the arrears of salary and accordingly revise his pension.

For Petitioner : Mr.S.Selvathirumurugan

For Respondents: Mr.S.Thangavel,
Special Government Pleader

ORDER

Petitioner has come up with this Writ Petition seeking a direction to the Respondents to regularize his services from the period 27.05.2005 till 16.05.2011 as duty period with all service and monetary benefits in view of G.O.(2D) No.190, dated 12.05.2011 and consequently upgrade his post as Special Sub-Inspector in Kancheepuram District notionally with effect from 12.03.2009 giving monetary benefits to him in the upgraded post in the scale Rs.5300-150-8300 with effect from 01.06.2008 and to pay the arrears of salary, and accordingly revise his pension.

2. According to the Petitioner, while he was working as Head Constable, he fell ill on 02.11.2004 due to chest pain and was admitted in Hospital after getting sick Passport and was on Medical Leave till 03.12.2004 and that, from 04.12.2004, due to severe stomach pain, he was unable to attend duty.

3. While so, by an order dated 04.01.2005 passed by the 4th Respondent, the Petitioner was declared as a deserter and he was directed to appear in person within a period of six days from the date of receipt of a copy of this order. Pursuant to the said order, the Petitioner appeared before the 4th Respondent on 12.01.2005 and without taking him back to duty, the 4th Respondent issued an order on 17.01.2005 to the effect that, he would be reinstated in service only after the disposal of the Charge Memo to be issued to him.

4. Thereafter, a Charge Memo dated 07.02.2005 was issued for unauthorized absence of 21 days from 24.12.2004. An enquiry was held and the Petitioner submitted his written statement of defence on 12.04.2005 revealing the fact of his sickness supported by Medical Certificates. Without considering the same, the Deputy Superintendent of Police, Sriperumbudur, who was the Enquiry Officer sent Minutes dated 17.04.2005 to the 4th Respondent. The 4th Respondent, vide Memo dated 21.04.2005 called upon the Petitioner to submit his further representation and the Petitioner submitted his further representation on 25.04.2005 along with relevant documents. Thereafter, by an order dated 27.05.2005, the 4th Respondent imposed the punishment of compulsory retirement on the Petitioner.

5. Aggrieved by the said punishment, the Petitioner preferred an Appeal to the 3rd Respondent on 17.06.2005 and the same was rejected by the 3rd Respondent by an order dated 05.10.2005. Challenging the said rejection, the Petitioner preferred a Review Petition dated 23.11.2005 to the 2nd Respondent with all documents. By an order dated 25.01.2006, the 2nd Respondent dismissed his Review Petition. Aggrieved over the same, the Petitioner preferred a Mercy Petition to the

Government on 14.03.2006. The said Mercy Petition was rejected by the Government vide G.O.(2D) No.360, dated 14.06.2006. Once again, the Petitioner sent a Mercy Petition to the Government and the same came to be rejected vide G.O.(2D) No.551, dated 22.08.2007.

6. However, the Petitioner's Review Petition dated 02.02.2009 addressed to the Government was considered and finally, the 1st Respondent issued orders in G.O.(2D) No.190, dated 12.05.2011 modifying the penalty of compulsory retirement imposed in P.R.No.18/205 to that of punishment of 'black mark'. It was also stated in the said Government Order that, orders regarding the regulation of the period of non-employment will be issued separately. Thereafter, the Petitioner was reinstated in service and he attained the age of superannuation on 31.03.2012.

7. The grievance of the Petitioner is that, due to non-regulation of the period of his absence, his services from 27.05.2005 till 12.05.2011 were not at all taken into account for the purpose of his seniority and promotions, to which, he was eligible during the relevant period. In respect of his grievance, the Petitioner made a representation dated 04.06.2012 to the Respondents. As no action was taken on his representation, the Petitioner has come up with this Writ Petition.

8. Learned counsel for the Petitioner submitted that, the Petitioner's representation dated 04.06.2012 may be directed to be considered by the Respondents.

9. In reply, learned Special Government Pleader appearing for the Respondents, with reference to the counter filed on behalf of the Respondents, submitted that, though the Petitioner has completed 25 years of total service in the Police Department, he has not completed ten years of service in the category of Head Constable and hence, he is not eligible for upgradation as Special Sub-Inspector of Police, as contended by him.

10. Having regard to the submissions of the learned counsel on either side and without going into the merits of the case, this Court directs the Respondents herein to consider the Petitioner's representation dated 04.06.2012 on merits and in accordance with law, taking note of the fact that, the Petitioner's punishment was modified, and pass appropriate orders within a period of twelve weeks from the date of receipt of a copy of this order.

This Writ Petition is disposed of with the above direction.
No costs.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

(aeb)

To:

1. The Secretary to Government,
State of Tamil Nadu,
Home Police V Department,
Fort St. George,
Chennai 600 009.
2. The Director General of Police,
Chennai 600 004.
3. The Deputy Inspector General of Police,
Kancheepuram Range,
Kancheepuram.
4. The Superintendent of Police,
Kancheepuram.

+1cc to the Government Pleader, S.R.No.36077

W.P.No.7528 of 2013

LN(CO)
CS/16/12/2020

सत्यमेव जयते

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