

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 31.01.2020

Coram

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.23393 of 2017 and
W.M.P.No.24496 of 2017

N.Sagadevan

... Petitioner

Vs.

1. The Inspector General of Police,
Santhome, Chennai.

2. The Superintendent of Police,
Dharmapuri District.

.... Respondents

Prayer: This writ petition has been filed under Article 226 of the Constitution of India to issue a writ of Mandamus directing the first respondent to treat the suspension period from 08.10.2013 to 25.04.2017 as service period and to pay the all accrued benefits.

For Petitioner : Mr.R.Karunakaran

For Respondents : Mr.S.Thangavel, Spl.Gov. Pleader,

O R D E R

This petition has been filed for direction to the first respondent to treat the suspension period from 08.10.2013 to 25.04.2017 as service period and to pay the all accrued benefits to the petitioner.

2. The case of writ petitioner in nutshell is as follows.

While the petitioner was working as Head Constable at Marandahalli Police Station, formerly Thopur police station, Dharmapuri District, he was suspended from service from 08.10.2013 to 25.04.2017 and a criminal case in C.C.No.103 of 2015 was filed against him before the Judicial Magistrate No.2, Charamapuri. Subsequently, the criminal case was ended with acquittal on 24.04.2017 and the petitioner had reported duty on

26.04.2017. However, the first respondent issued an order of settlement of suspension period dated 06.07.2017, thereby ordered that as per Fundamental Rules 54(2), the suspension period from 08.10.2013 to 25.04.2017 is treated as eligible leave period. But, as per G.O.Ms.No.544 Employment dated 19.06.2017 and G.O.No.238, Employment Department dated 13.08.1969, the suspension period should be treated as service period and full salary to be paid to the petitioner, as he was acquitted in a criminal case. Therefore, the petitioner made a representation dated 08.05.2017 and 10.06.2017. However, there is no response from the respondent. Hence this writ petition.

3. The learned Additional Government Pleader submitted that the petitioner had been found guilty of very grave charges of moral turpitude involving himself of having hand in glove intimacy with the criminals particularly burglars and thieves in a way of granting asylum and nurturing their habitual conduct. He further submitted that though the petitioner deserves no sympathy in the light of his gravity of his proven minute, taking note of his request, by awarding minor punishment, he was reinstated into service and that acquittal in a criminal case has no bearing upon the claim of the petitioner and hence, the petitioner was punished under the Departmental proceedings by awarding a punishment of "postponement of increment for two years with cumulative effect " and also, as per the Fundamental Rules FR 54(5), the period of suspension from 08.10.2013 to 25.04.2017 spent by the petitioner is treated as eligible leave as follows

08.10.2013 to 25.11.2013	-	49 days/EL(P)
26.11.2013 to 23.02.2014	-	90 days/UEL 1/2 pay
24.02.2014 to 25.04.2017	-	1157 days /LWP (P)

Therefore, he prayed for dismissal of the writ petition.

4. Heard the learned counsel appearing for the as well as the respondents. I have perused the materials on record.

5. By taking into consideration of the facts of the case and in the light of the above said Fundamental Rule, this court is of the view that there is no illegality or arbitrary in the orders passed by the respondent. Therefore, the relief sought for by the petitioner cannot be granted.

6. In the result, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed. As per the order passed by the 2nd respondent dated 06.07.2017, if the difference of pay and allowance is due to be

paid to the petitioner, the same shall be paid to him, as far as possible, within a period of 8 weeks from the date of receipt of the copy of this order.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

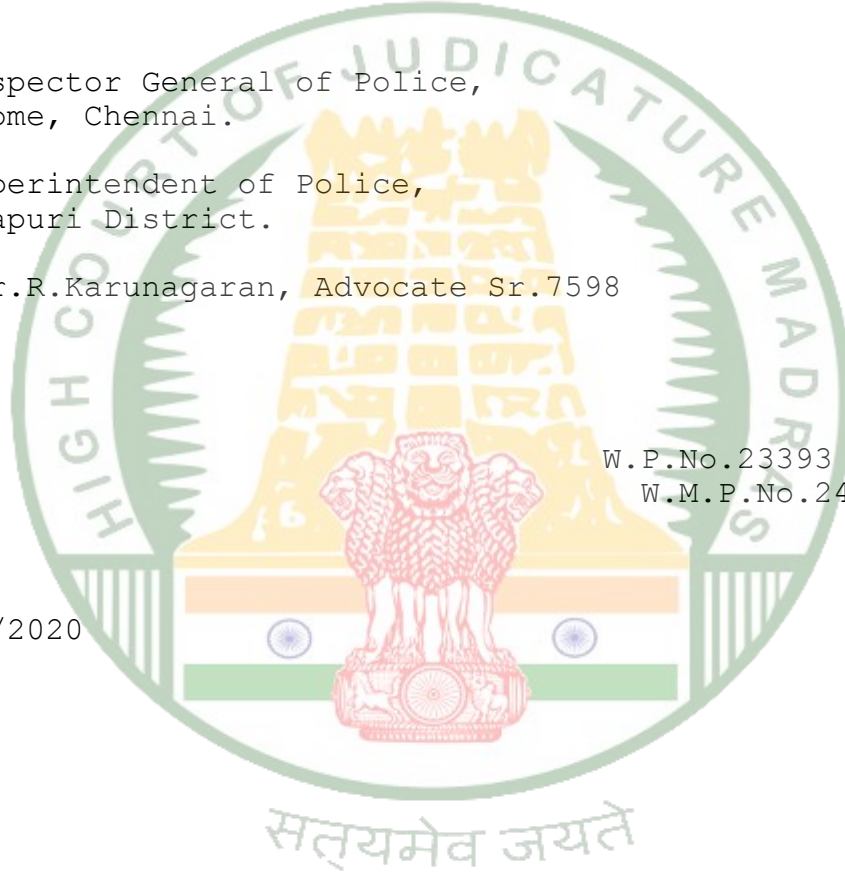
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1. The Inspector General of Police,
Santhome, Chennai.
2. The Superintendent of Police,
Dharmapuri District.

+1cc to Mr.R.Karunagaran, Advocate Sr.7598

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srg 21/02/2020



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