



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **06.02.2020**

CORAM:

THE HONOURABLE **MR. JUSTICE M.S.RAMESH**

W.P. (MD) No.1258 of 2020

and

W.M.P (MD) Nos.1016 and 1017 of 2020

P.Gurusamy

... Petitioner

/vs./

1.The State of Tamil Nadu,
Rep by its Secretary to Government,
Home Department,
Secretariat, Chennai.

2.The Director General of Police,
Chennai-4.

3.The Deputy Inspector General of Police,
Madurai Range,
Madurai.

4.The Superintendent of Police,
Sivagangai District,
Sivagangai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the record relating to the impugned order passed by the third respondent in his proceedings Tha.Pa.No.70/2007 dated 25.05.2007 and consequential impugned order of the fourth respondent in his proceedings in C.No.H1/22031/2007 D.O.No.1424/2009 dated 31.12.2009 and quash the same as illegal and consequentially to direct the respondents to permit the petitioner to retire from service w.e.f 31.12.2009 and disburse the retirement benefits of the petitioner along with all other consequential monetary benefits with an accrued interest thereon.

For Petitioner : Mr.C.Venkatesh Kumar
for M/s.Ajmal Associates

For Respondents : Mr.R.Sethuraman
Special Government Pleader

**ORDER**

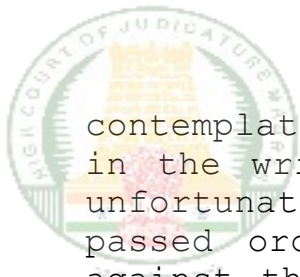
In connection with the occurrence that took place when the petitioner herein who was employed as Head Constable, a criminal case came to be registered in Crime No.366 of 2004. Based on the same, the charge memo came to be levelled against the petitioner on 25.05.2007 in PR.No.70 of 2007. He was also suspended from service on 31.12.2009 and he was not allowed to retire from service on the date of his superannuation i.e., 31.12.2009. Incidentally, the persons named in crime No.366 of 2004 were also levelled with the similar charge memo in PR.Nos.66, 67, 68 and 69 of 2007. One of the co-delinquent namely V.S.Ilangovan was dealt with under charge memo in PR.No.69 of 2004 by the first respondent herein.

2.Though the charges were framed in the year 2007, there was no progress in the departmental action and therefore, the aforesaid co-delinquent namely V.S.Ilangovan had filed a writ petition in W.P(MD) No.9386 of 2012, seeking for a direction to conclude the departmental proceedings, since his promotion was kept in abeyance in view of the pendency of the departmental proceedings. This Court by an order dated 28.11.2016, had quashed the charge memo on the ground of laches in completing the departmental proceedings. The said order of the learned Single Judge dated 28.11.2016 was put under challenge in an appeal in W.A (MD) No.908 of 2017 and the Hon'ble Division Bench of this Court, by an order dated 25.09.2019, had dismissed the writ appeal and consequently, directed the respondents to extend all the benefits to the co-delinquent.

3.Likewise, when another delinquent D.Jeyaseelan Koilraj Mathew , who was proceeded against in PR.No.67 of 2007 had filed a writ petition in W.P(MD) No.7698 of 2019 challenging the charge memo, this Court by an order dated 18.12.2019 had placed reliance on the earlier orders passed by this Court, in the case of co-delinquent namely V.S.Ilangovan and had quashed the charge memo in PR.No.67 of 2004.

4.The charges levelled against the petitioner herein is also similar to that of the other two delinquents, whose charges have been quashed by this Court on the ground of laches.

5.The fact remains that the departmental action as against the petitioner herein is still pending even after the expiry of more than 13 years. The learned Government Advocate appearing for the respondents, as per oral instructions from Senthil Kumar, Junior Assistant attached to the first respondent herein, would oppose the writ petition stating that the respondents are



contemplating to file a review petition against the order passed in the writ appeal in the case of V.S.Ilangovan. It is rather unfortunate that though the learned Single Judge of this Court had passed orders way back on 28.11.2016, quashing the charges as against the one of the co-delinquent and the Division Bench had also affirmed the said order on 25.09.2019, no review has been filed till date and the first respondent claims to be still contemplating to file a review petition, which has admittedly not been filed till date and on that ground they seek to oppose the present writ petition.

6.I am unable to appreciate the conduct of the first respondent in raising such a flimsy ground. When the legal grounds, which were available against the petitioner and are similar to that of the co-delinquent, had been raised before this Court and the respondents have also failed in their attempts, the proper remedy would have been to immediately act upon the orders passed and not to wait indefinitely with a contemplation to file a review, for more than three years. As a matter of fact, more than four months have lapsed since the Division Bench's order has been passed and no effective or speedy action has been taken by the first respondent, even to take a decision as to whether the review can be filed or not. While that being so, I do not find any justification on this ground, particularly when the charges against the co-delinquents, who are similarly placed, have already been quashed by this Court.

7.In the light of the above observations, the impugned proceedings dated 25.05.2007 in Tha.Pa.No.70 of 2007 issued by the third respondent and consequential, impugned order of the fourth respondent in C.No.H1/22031/2007 D.O.No.1424/2009, dated 31.12.2009, stands quashed. Consequently, the petitioner shall be entitled to all the monetary and service benefits including the pensionary benefits, without reference to the charge memo in Tha.Pa.No.70 of 2007. The respondents shall endeavour to disburse the retirement benefits to the petitioner atleast within a period of four weeks from the date of receipt of a copy of this order. Accordingly, this Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(AD-I)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)



To

1.The Secretary to Government,
State of Tamil Nadu,
Home Department,
Secretariat, Chennai.

2.The Director General of Police,
Chennai-4.

3.The Deputy Inspector General of Police,
Madurai Range,
Madurai.

4.The Superintendent of Police,
Sivagangai District,
Sivagangai.

+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-5168[F] dated
07/02/2020)

+1 CC to M/s.SPL GP (SR-5220[F] dated 07/02/2020)

Order made in
W.P.(MD)No.1258 of 2020
06.02.2020

TR(11.03.2020) 4P 7C