



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.09.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.(MD)No.11317 of 2020
(Through Video Conferencing)

A.Paulraj Pandian

... Petitioner

Vs.

1. The Director General of Police,
Kamarajar Salai,
Mylapore,
Chennai.

2. The Commissioner of Police,
Madurai City,
Madurai.

3. The Deputy Commissioner of Police (L&O)
Madurai City,
Madurai.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus to direct the 1st respondent to dispose the review petition filed by the petitioner through proper channel and RPAD on 13.08.2020 within the stipulated time.

For Petitioner : Mr.A.Rajaram

For Respondents : Mr.K.Mu.Muthu
Additional Government Pleader

ORDER

The prayer in the writ petition is for a writ of Mandamus to direct the 1st respondent to dispose the review petition filed by the petitioner through proper channel and RPAD on 13.08.2020 within the stipulated time.



2. The petitioner was a Police Constable, against whom, disciplinary proceedings was initiated, which ended in punishment. During the pendency of the disciplinary proceedings, he had been suspended during the year 2014-15. Therefore, in order to regularize the said suspension period as duty period, the petitioner had already approached the respondents and the said request of the petitioner, having been considered, was rejected by the second respondent, by order dated 13.02.2020.

3. However, the petitioner, instead of choosing to challenge the said order dated 13.02.2020 passed by the second respondent, seems to have given a review application on 13.08.2020 to the first respondent and accordingly, he filed this writ petition to dispose the said review application dated 13.08.2020 filed before the first respondent.

4. Heard the learned counsel for the petitioner and the learned Additional Government Pleader appearing for the respondents.

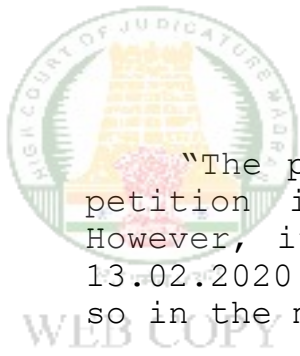
5. The learned Additional Government Pleader appearing for the respondents would submit that, if at all any punishment is given, as against which, though appeal is not provided, by way of mercy petition to the Director General of Police, who is the Head of the Police Department, the said appeal would be filed and that would be considered as a mercy petition and accordingly, punishment awarded by the disciplinary authority confirmed/modified/enhanced by the appellate authority would be decided by the first respondent by way of mercy petition. However, no such procedure adopted in respect of the order passed by the second respondent in this case dated 13.02.2020 rejecting the request of the petitioner to treat his suspension period as duty period, in view of the fact that the disciplinary proceedings ended in punishment.

6. I have considered the said submissions made by both sides and have perused the materials placed before this Court.

7. As has been rightly pointed out by the learned Additional Government Pleader, if at all the petitioner is aggrieved over the order passed by the second respondent dated 13.02.2020 rejecting his claim to regularize the suspension period as duty period, as against the said order, it is open to the petitioner to agitate the same in the manner known to law, instead, the petitioner has filed a review, that too, before the first respondent before whom, no appeal or review would lie. Therefore, this Court cannot issue a direction to the first respondent to decide the review dated 13.08.2020 filed by the petitioner before the first respondent.

8. In that view of the matter, this Court is inclined to pass the following order in this writ petition:

<https://hcservices.ecourts.gov.in/hcservices/>



"The prayer sought for cannot be granted. Therefore, the writ petition is liable to be dismissed and accordingly, dismissed. However, it is open to the petitioner to challenge the order dated 13.02.2020 passed by the second respondent, if he is advised to do so in the manner known to law."

9. No costs.

Sd/-

Assistant Registrar (A.E)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

RR

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The Director General of Police,
Kamarajar Salai, Mylapore, Chennai.
2. The Commissioner of Police,
Madurai City, Madurai.
3. The Deputy Commissioner of Police (L&O)
Madurai City, Madurai.

+1 CC to Mr.A.RAJARAM, Advocate (SR-16609[F] dated 11/09/2020)
+1 CC to the SPL GP (SR-16620[F] dated 11/09/2020)

W.P. (MD)No.11317 of 2020
10.09.2020

VR (CO)
CS (29.10.2020) 3P 6C