



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.01.2020

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P(MD)No.15918 of 2019

and

W.M.P(MD).Nos.12643 & 12644 of 2019

A.Elangovan

Petitioner

Vs

1. The Director General of Police,
Dr.Radhakrishnan Salai,
Mylapore,
Tamilnadu,
Chennai-4.
2. The Inspector General of Police and
Commissioner of Police,
Armed Reserve, Madurai City,
Madurai.
3. The Deputy Commissioner of Police,
Armed Reserve,
Madurai city,
Madurai.
4. The Deputy Inspector General of Police,
Madurai Range,
Madurai.
5. The Assistant Commissioner of Police,
Traffic Investigation Wing,
Madurai City,
Madurai.

Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the records relating to the impugned order passed by the third respondent in PR No.12/2008 dated 13.11.2008 and the order passed by the first respondent in his order Rs No.63464/AP.2(3)/2019 dated 11.04.2019 and quash the same as illegal and consequently directing the respondents to reinstate the petitioner into service with all monetary, attendant and service



benefits.

For Petitioner

: Mr.L.Gunasekaran

For Respondents

: Mr.C.M.Mari Chellaiah Prabhu
Additional Government Pleader

WEB COPY

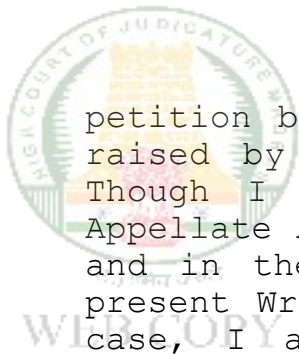
O R D E R

The Writ Petition has been filed to call for the records relating to the impugned order passed by the third respondent in PR No.12/2008 dated 13.11.2008 and the order passed by the first respondent in his order Rs No.63464/AP.2(3)/2019 dated 11.04.2019 and quash the same as illegal and consequently to direct the respondents to reinstate the petitioner into service with all monetary, attendant and service benefits.

2. The case of the petitioner is that while he was serving as a Constable in Tamil Nadu Special Service, he was implicated in a criminal case in Crime No. 243 of 1998, for the offences under Sections 457, 380, 302 r/w 109 IPC. The charge sheet came to be filed, wherein the petitioner was arrayed as sixth accused. In view of his involvement in the criminal case, he was placed under suspension by Commissioner of police on 18.09.2007 and thereafter dealt with departmental proceedings in PR No.12 of 2008 under Rule 3(b) of Tamil Nadu Police Special Services (D&A) Rules 1955. After enquiry, he was awarded with the punishment of dismissal from service on 13.11.2008 by the third respondent herein. As against the punishment awarded by the original authority, the petitioner seems to have filed an appeal before the Appellate Authority namely the second respondent herein. However, the appeal petition came to be returned by the second respondent on the ground that the appeal was time barred. The petitioner had also filed a mercy petition before the first respondent herein, which also came to be rejected on 11.04.2019. Challenging these orders, the present Writ petition has been filed.

3. The learned counsel for the petitioner has raised several grounds in the present writ petition questioning the validity of the punishment imposed, as well as the reasoning of the first respondent in the mercy petition. This court is of the view that in order to appreciate such factual grounds raised, the appropriate authority would be the second respondent, before whom the appeal would lie against the punishment imposed by the second respondent herein and who had returned the petitioner's appeal petition as time-barred.

4. The learned counsel would also rely upon the order of acquittal and submit that in view of the acquittal, the order of punishment is liable to be set aside. In my considered view, the petitioner can be given one more opportunity to file an appeal



petition before the appellate authority, since most of the grounds raised by him are factual findings of the original authorities. Though I do not find any infirmity on the part of the first Appellate Authority in returning the appeal petition as time barred and in the light of the ground raised by the petitioner in the present Writ Petition that he has been acquitted from the criminal case, I am of the view that the petitioner can be given one opportunity by invoking the extraordinary powers of this Court, under Article 226 of Constitution of India and thereby permitting him to file an appeal afresh, before the second respondent.

5. In the light of the above observations and without going into the merits of the grounds raised in the present Writ petition, the petitioner is granted liberty to file a fresh appeal petition, as against the original order of punishment dated 13.11.2008, before the second respondent, atleast within a period of 30 days from the date of receipt of a copy of this order. On receipt of such an appeal filed by the petitioner, if any, the second respondent shall consider the same on its own merits and pass appropriate orders in accordance with law, after giving due opportunity to the petitioner and by considering all the grounds raised by him therein. Such a process shall be completed atleast within a period of three months from the date of receipt of the appeal petition.

6. With the above directions, the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

vrn

To

1. The Director General of Police,
Dr.Radhakrishnan Salai,
Mylapore, Tamilnadu,
Chennai-4.
2. The Inspector General of Police and
Commissioner of Police,
Armed Reserve, Madurai City,
Madurai.



3. The Deputy Commissioner of Police,
Armed Reserve,
Madurai city,
Madurai.

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

5. The Assistant Commissioner of Police,
Traffic Investigation Wing,
Madurai City,
Madurai.

+3 CC to M/s.L.GUNASEKARAN, Advocate (SR-4163[F] dated 31/01/2020)

+1 CC to M/s.SPL.GP (SR-4409[F] dated 03/02/2020)

W.P (MD) No.15918 of 2019

and

W.M.P (MD) .Nos.12643 & 12644 of 2019

30.01.2020

JMN(10.02.2020) 4P : 10C