



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 03.02.2020**

**CORAM**

**THE HONOURABLE MRS.JUSTICE J.NISHA BANU**

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**WP(MD)No.15117 of 2015**

**and**

**M.P(MD).Nos.1 to 3 of 2015**

T.Durairaj

... Petitioner

vs.

1.The State of Tamil Nadu  
represented by its Secretary Home Department  
Chennai 600 009

2.The Director General of Police  
Office of the Director General of Police  
Kamaraj Salai, Chennai 600 004

3.The Deputy Inspector General of Police  
Thanjavur Range  
Thanjavur

4.The Superintendent of Police  
Thanjavur District  
Thanjavur

5.The Superintendent of Police  
Nagapattinam District  
Nagapattinam

... Respondents

**PRAYER** : Writ petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for the records of the fourth respondent relating to the impugned order of dismissal vide No.D.O.No.2054/2014 vide proceeding No.R.C.No.K4/PR/12/2013 dated 04.12.2014 and quash the same as being illegal, arbitrary and unconstitutional and consequently direct the respondents to grant the petitioner continuity of service, seniority and promotions on par with juniors, back wages and all the other attendant benefits due to the petitioner and the monetary benefits along with accrued interest from 30.04.2007 onwards ie. date of superannuation 30.04.2007 within a time frame.

For Petitioner : Mr.T.S.Mohammed Mohideen  
For M/s.K.J.Associates

For Respondents : Mr.D.Muruganandham  
Additional Government Pleader



**O R D E R**

This writ petition has been filed by the petitioner against the order of dismissal passed by the Superintendent of Police on 04.12.2014, when he was serving as Head Constable.

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2. The case of the petitioner is that earlier on 03.09.2002, the petitioner was convicted in C.C.No.8 of 2001 by the learned Additional District Judge Cum Chief Judicial Magistrate, Nagapattinam for the offence under Section 7 and 13(1)(d) r/w 13(2) of Prevention of Corruption Act, 1985. Based on the conviction, the petitioner was dismissed from service on 03.09.2002. Against which, the petitioner filed an appeal in CrI.A.No.414 of 2002 and the same was allowed on 27.02.2009 and thus, conviction was set aside. Thereafter on 09.12.2011, the petitioner made a representation before the fourth respondent the Superintendent of Police, Thanjavur to reinstate him into service. The request was not considered. Thereafter on 13.06.2012, the petitioner made a representation before the Director General of Police and sought for reinstatement and service benefits. But, the same was not considered by the respondents. Therefore, the petitioner filed a Writ petition in W.P (MD).No.33234 of 2012 to dispose the representation, dated 13.06.2012 and this Court, by an order dated 12.12.2012, directed the respondents to dispose the representation, within a period of eight weeks. Thereafter, the third respondent by an order dated 18.03.2013 reinstated the petitioner into service. In the meanwhile, the petitioner has attained the age of superannuation on 30.04.2007. But, he was not allowed to retire from service and he was issued with charge memo on 21.05.2013. Due to that, the petitioner was dismissed from service by the fourth respondent by an order dated 04.12.2014. Against which, the petitioner filed an appeal before the first respondent and the same was also dismissed on 04.05.2015. Aggrieved over the same, the petitioner is before this Court.

3.The learned Additional Government Pleader appearing for the respondents would contend that the petitioner had demanded and accepted the bribe amount of Rs.5,000/- from one Saminathan and therefore, he was convicted by the trial Court. On that basis, the petitioner was dismissed from service. He, he prayed for dismissal of this Writ petition.

4.Perusal of record shows that the charges against the petitioner both in the departmental proceedings and the criminal cases are identical. The charges against the petitioner are that the petitioner when serving as Head Constable at Seerkali Police Station, demanded and accepted a sum of Rs.5,000/- from one Swaminathan for not registering case against the Swaminathan and further had performed Katta Panchayat, over the dispute of



transaction involving flight ticket clearance. The finding of the Punishing Authority that even though the petitioner has been acquitted by this Court in the above said appeal, he ought to have registered the complaint instead he has performed katta panchayat.

5. The allegation against the petitioner is that he had demanded Rs.5,000/- as bribe and accepted the same. On perusal of record shows that while allowing the appeal, this Court has given a finding that " there is no legal evidence to establish that a sum of Rs.5,000/- was paid by P.W.2 therein to the petitioner/accused as bribe. The said amount has been paid by P.W.2 therein only as part of compensation amount to be paid to P.W.11 therein. The said amount has been paid only as part of compensation for the purpose of amicably settling the dispute between P.W.2 and P.W.11 as determined by Panchayat cannot be classified as bribe. Therefore, the Court finds that the prosecution has failed to establish that the accused/petitioner committed the offence punishable under Section 7 and 13(i)(d) r/w 13(2) of the Prevention of Corruption Act, 1988" and thus, the learned Judge has acquitted the petitioner and he has been reinstated into service. Since the petitioner has not registered the F.I.R, the disciplinary proceedings has been initiated against him. The specific allegation against the petitioner is that he has not registered the F.I.R and ought not to have involved in the katta panchayat. Even as per the charge memo, there is no allegation of bribe and only allegation is that he has not registered the F.I.R. But, the petitioner is not an authority to register the F.I.R. even on that account, the charges cannot be proved against the petitioner.

6. In view of the reasons stated above, I am inclined to interfere with the order passed by the fourth respondent. Accordingly, the impugned order passed by the fourth respondent, dated 04.12.2014 is set aside and this Writ petition is allowed. The respondents are directed to grant the petitioner continuity of service, seniority and promotion on par with his juniors, backwages, pensionary benefits and all other attendant benefits due to the petitioner with interest at 7.5% per annum from the date of superannuation of the petitioner namely, 30.04.2007 till the date of payment. The said exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AD-I)

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/ /2020

Sub Assistant Registrar(CS)



To

1.The Secretary  
Home Department  
State of Tamil Nadu  
Chennai 600 009

2.The Director General of Police  
Office of the Director General of Police  
Kamaraj Salai, Chennai 600 004

3.The Deputy Inspector General of Police  
Thanjavur Range  
Thanjavur

4.The Superintendent of Police  
Thanjavur District  
Thanjavur

5.The Superintendent of Police  
Nagapattinam District  
Nagapattinam

+1 CC to M/s.SPL GP ( SR-4554[F] dated 04/02/2020 )

+1 CC to M/s.S.KRISHNAN, Advocate ( SR-4689[F] dated 04/02/2020 )

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**and**

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