



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.NO.1456 OF 2015

S.Ravichandran,
Deputy Superintendent of Police,
No.77/78, Periyar Nagar,
Kattur, Trichy 620 019

...Petitioner

vs.

- 1) The Principal Secretary to Government,
Home (Police-IV) Department,
Secretariat, Chennai 600 009
- 2) The Director General of Police,
Tamil Nadu, Chennai 600004
- 3) The Additional Director General of Police,
(Law and Order), Tamil Nadu,
Chennai 600 004
- 4) The Deputy Inspector General of Police,
Crime , SIT, Chennai 600 016.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the order of the third respondent herein passed in Rc.No.13862/APIV(2)/2009 dated 06.01.2010 imposing the punishment of postponement of next increment for one year without cumulative effect and confirmed by the second respondent herein in Rc.No.24181/APIV(2)/2010 dated 29.01.2011 and the consequential order passed by the fourth respondent herein in his C.No.C1/NIB/838/2011 dated 19.07.2011 and the order passed by the first respondent herein in G.O.(2D) No.30, Home (Police-IV) Department dated 04.02.2014 and quash the same and consequently, direct the respondents herein to treat the period of suspension from 23.08.2005 to 11.12.2008 as duty for all purposes with all consequential service and monetary benefits.



WEB COPY

For Petitioner : Mr.Ravi Shanmugam
For Respondents : Mr.E.Veda Bagath Singh,
Special Government Pleader.

O R D E R

The petitioner herein, while serving as an Inspector of Police in NIB CID, Dindigul Unit was implicated in a criminal case, consequent to which two charges were framed against him. Insofar as the first charge is concerned, it relates to registration of the criminal case. The Enquiry Officer as well as the Disciplinary Authority/Appellate Authority had found that this charge as 'not proven'.

2. The second charge pertains to petitioner's unauthorised absence from the Head Quarters between the morning of 19.08.2005 till 21.08.2005.

3. Pending the disciplinary proceedings, the petitioner was placed under suspension through an order dated 23.08.2005 on the ground that the aforesaid criminal case was pending investigation. In consequence to the enquiry, the petitioner was ultimately imposed with the punishment of stoppage of increment for a period of one year without cumulative effect. In the present writ petition, the petitioner challenges the punishment with a consequential prayer to treat his period of suspension from 23.08.2005 to 11.12.2008 as duty for all purposes.

4. Insofar as the punishment is concerned, the learned counsel for the petitioner would submit that the findings of the Enquiry Officer as well as the Disciplinary Authority is based on 'no evidence' and therefore, the consequential punishment cannot be sustained.

5. Per contra, Mr.E.Veda Bagath Singh, learned Special Government Pleader, by placing reliance on the counter affidavit filed by the respondents, would submit that the Enquiry Officer had placed reliance on the oral evidence adduced during the course of enquiry and as such, it cannot be said that the findings was not on the basis of any evidence. A perusal of the enquiry officer's report, dated 19.08.2008 reveals that reliance was placed on the evidences of PW's 1, 2, 3, & 5 to 7 for the purpose of holding the second charge as proved. This apart, the Enquiry Officer had also held that the delinquent had not substantiated during the course of enquiry with regard to the date and time of serving the detention intimation letter to the wife of the detenu, which document could have been filed by the



petitioner. It is on the basis of this inference and on the evidences of the witnesses, the second charge was held as 'proved'.

6. To state specifically, the Enquiry Officer had relied on P.W.'s 5, 6 and 7 for the purpose of holding that the petitioner did not confirm his location after 19.08.2005 and before 21.08.2005 and the evidences of P.W.1 to P.W.3 reveals that there was every possibility to the delinquent to inform his location to the Unit or to his Superior, which he has failed to do so. In view of these findings, this cannot be a case based on "no evidence" .

7. With regard to the consequential prayer sought for by the petitioner in the present writ petition is concerned, he was placed under suspension from 23.08.2005 to 11.12.2008 which period, he seeks for being treated as 'duty for all purposes'. As rightly pointed out by the learned counsel for the petitioner, the Fundamental Rules in FR 54(9) stipulates that whenever the Government servant is placed under suspension in connection with a criminal case registered against him and when such criminal case results in an acquittal of any nature, the period of suspension is to be treated as duty for all purposes and consequently, the delinquent would be entitled for all monetary benefits for that period. The Fundamental Rules as prescribed under FR 54(9) reads as follows:-

" 54 ...

(9) Where a Government servant is.-

(a) Placed under suspension in view of the fact that a complaint against him of any criminal offence is under investigation or trial; or

(b) dismissed or removed from service or compulsorily retired on the ground of conduct which has led to his conviction on a criminal charge and the Government servant is subsequently reinstated in service on his acquittal by the Court either on merits or on the ground that the charge has not been proved against him or by giving benefit of doubt or on any other technical ground, * or on the ground that he has been pardoned by the Court as he turned approver based on his judicial confession, he must be regarded as having been prevented from discharging his duties and the period of his absence including the period of suspension shall be treated as duty for all purposes and he shall be paid full pay and allowances which he would have been entitled to, had he not been under suspension, or dismissed or removed or compulsorily retired from service".



8. It is not in dispute that the criminal case registered against the petitioner herein, which was taken on file in S.C.No.58 of 2007 before the Chief Judicial Magistrate, Dindigul had resulted in an acquittal through the judgment dated 02.01.2008 and has also become final. By applying the aforesaid Fundamental Rule, it has to be necessarily held that the aforesaid suspension period is to be treated 'as duty for all purposes'.

9. While this being the legal position, the fourth respondent herein in his order dated 19.07.2011, had settled the suspension period in the following manner:-

"23.08.05 to 19.01.06 - 150 Days E.L.
20.01.06 to 19.04.06 - 180 Days UEL on (P.A.) converted into 90 days.
20.04.06 to 11.12.08 - Leave on Loss of Pay - 02.07.22 days."

10. Apparently, the aforesaid settlement is opposed to the Fundamental Rule 54(9) and consequently, the order of the fourth respondent, dated 19.07.2011 in this regard, cannot be sustained. The learned Special Government Pleader would submit that since the petitioner was awarded with the punishment of postponement of increment for one year without cumulative effect, the fourth respondent was justified in treating the period of suspension as Loss of Pay and Eligible Leave. Such a statement is based on the counter affidavit filed on behalf of the respondents.

11. In view of the observations made by this Court in the earlier paragraphs, the submission of the learned Special Government Pleader may not be correct since it is opposed to Fundamental Rule 54(9). In this background, though no interference is required to prove the charges and consequential punishment, the decision of the fourth respondent to settle the period of petitioner's suspension as Loss of Pay and Eligible Leave, cannot be sustained.

12. In the result, the impugned orders dated 06.01.2010, 29.01.2011 and 04.02.2014 insofar as the imposed punishment for the proven charges and confirmed in appeal, is sustained. However, the order dated 19.07.2011 passed by the fourth respondent herein, treating the period of suspension between 23.08.2005 to 11.12.2008 as Loss of Pay and Eligible Leave is set aside with a consequential direction to treat the said period



of suspension 'as duty for all purposes' including disbursement of monetary benefits. The Writ Petition stands ordered accordingly. However, there shall be no order as to costs.

WEB COPY

Sd/-
Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

sts/ ata

To:

- 1) The Principal Secretary to Government,
Home (Police-IV) Department,
Secretariat, Chennai 600 009
- 2) The Director General of Police,
Tamil Nadu, Chennai 600004
- 3) The Additional Director General of Police,
(Law and Order), Tamil Nadu,
Chennai 600 004
- 4) The Deputy Inspector General of Police,
Crime , SIT, Chennai 600 016.

+1cc to the Government Pleader, S.R.No.65260

W.P.No.1456 of 2015

KG(CO)
RLP(22/12/2021)