



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.09.2021

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P. NO. 4209 OF 2007

AND

MP.NO.1 OF 2008

S.Ismail

...Petitioner

Vs.

1.The Director General of Police,
Chennai-4

2.The Superintendent of Police,
Kancheepuram District,
Kancheepuram

3.Thiru Kamaraj

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of certiorarified mandamus calling for the records pertaining to the impugned order passed in R.C.No.215537/NGBIII(2)/2006 dated 18.01.2007 on the file of the 1st respondent and quash the same and direct the respondents 1 and 2 to retransfer te petitioner to Armed Reserve Kancheepurm, with due seniority and promote the petitioner on par with his immediate juniors and place his name above the 3rd respondent.

For Petitioner : Mr.M.S.Soundararajan

For Respondents : Mr.S.John.J.Raja Singh (R1 & R2)
Government Advocate

ORDER

Heard Mr.M.S.Soundararajan, learned counsel for the petitioner and Mr.S.John J. Raja Singh, learned counsel for R1



WEB COPY

and R2. As far as R3 is concerned, it appears that batta has not been paid by the petitioner and thus service is not complete. Learned counsel also informs the Court that R3 is no more. In any event, nothing turns upon his presence or otherwise in this matter.

2. The petitioner was appointed in Armed Reserve, Kancheepuram District as a Police Constable on 13.06.1978. While serving there, charges were framed as against the petitioner in regard to certain serious allegations and the petitioner had been suspended from service between 06.07.1983 and 04.02.1994. In the meanwhile, the petitioner had challenged the charge memo before the Tamil Nadu Administrative Tribunal and by order of the Tribunal dated 02.09.1993, the charge memo has been held non-maintainable and the order of suspension, set aside. The respondents were directed to reinstate the petitioner, along with other appellants in the appeal, in service within a month of receipt of that order or a copy thereof, along with all concomitant and service benefits. It is pursuant thereto that the petitioner came to be reinstated in service on 04.02.1994.

3. Upon his reinstatement, the petitioner was transferred from Armed Reserve to the local police force by way of transfer order dated 11.06.1985. The petitioner appears to have objected to the transfer on the ground that his concurrence had not been obtained. Such representation came to be rejected on 12.09.2006 by the Superintendent of Police, which order came to be challenged in W.P.No.41378 of 2006.

4. The writ petition was disposed by order dated 01.11.200, the learned Single Judge noting that it would be sufficient that the petitioner be afforded an opportunity to raise his grievances before the higher authorities for their consideration. The petitioner was permitted to approach the Director General of Police (DGP) by way of representation seeking redressal of his specific grievance that his concurrence ought to have been sought prior to transferring him and the DGP was directed to pass appropriate orders on merits within a period of twelve weeks from date of receipt of the representation. The petitioner filed a representation in November 2006, which has come to be rejected on 18.01.2007 by the DGP, which order is assailed in the present writ petition.



WEB COPY

5. The reasons for rejection are that the petitioner, upon transfer to local police in 1994 had rested content with serving there for five years enjoying all benefits of promotions within the local police itself. The representation questioning the transfer was filed only in 1999 and thus the delay in approaching the higher authorities came to be held adverse to the petitioner. It was only on 26.02.1999 that the petitioner, evidently as an afterthought, sent a flurry of representations dated 26.02.1999, 25.04.2000 and 05.04.2001. The aforesaid representations came to be rejected by the superintendent of Police based on Chief Office instructions in R.C.No.230107/NGB III(1)/86 dated 24.01.1987 and 09.03.1987 to the effect that re-transfer from local police to Armed Reserve could not be permitted except on adverse grounds and that to, only for a specified period.

6. I find no ground to interfere with the impugned order which sets out the reasons in detail for rejection of the request of the petitioner. Quite apart from the office instructions that have been referred to therein, I also find substance in the reasoning that the petitioner had served in the local police for a full five years moving through the ranks, and it was only in February 1999 that he suddenly questioned his transfer. There is no explanation for the delay in seeking redressal. Even before me, there is no explanation that is set forth except reliance on representation dated 14.02.1994 for which there is no acknowledgement or receipt placed on record.

7. For the aforesaid reasons, this writ petition is dismissed. Connected miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar

ska

To

1.The Director General of Police,
Chennai-4



2.The Superintendent of Police,
Kancheepuram District,
Kancheepuram

WEB COPY

+1cc to M/s.M.S.Soundara Rajan, Advocate SR.No.45930

+1cc to the Government Pleader SR.No.46156

W.P.No.4209 of 2007
and
MP.No.1 of 2008

RSV(CO)
RVM(10/11/2021)