



IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED : 30.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

W.P.No.23549 of 2008
and M.P.No.1 of 2008
(Through Video Conference)

1) S.Ramachandran (Deceased)
2) R.Thulasi ... Petitioner

Vs

The Additional Director General of Police,
Law and Order,
Office of the Director General of Police,
Kamarajar Salai, Chennai 600 004 ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records in RC.No.114100/AP.I(2)/2007 dated 28.05.2008, Additional Director General of Police (Law and Order) the respondent herein and quash the said order and direct the respondent to revise the pay and accrued benefits giving promotions to the petitioner to the post of Inspector of Police on the day as juniors of the petitioner was promoted.

For Petitioner : Mr.Sivam Sivandraj

For Respondents : Mr.C.Selvaraj,
Government Advocate

O R D E R

This Writ Petition is directed against the order, regularising the period of suspension spent by the petitioner as leave, including E.O.L. According to the petitioner, as per Fundamental Rules (FR) 54(3), when a punishment of compulsory retirement is set aside, the suspension period shall be counted as duty and it shall not be treated as leave or not on duty.

2. On perusal of the order passed by the Court, it is noted that the when the order of compulsory retirement was challenged, the Tribunal has observed that the misconduct does not warrant punishment of compulsory retirement and directed the respondents



to reconsider the issue and pass appropriate punishment. Accordingly, the matter was reconsidered by the Competent Authority and lesser punishment was imposed. Thereafter, the Competent Authority passed an order regularizing the period of suspension treating it as eligible leave including E.O.L. as per FR 54, in view of the fact that, he was not fully exonerated from the charges.

3. On further perusal of the materials disclose that the petitioner was not fully exonerated and he was imposed with punishment with respect to certain misconduct specified in the charge memo. As long as the petitioner is not fully exonerated, this Court is of the opinion that FR 54(3) will not apply in this case and it will be FR 54A(1) that will apply. Since the petitioner is not fully exonerated, the appointing Authority has rightly considered the issue and regularized the suspension, treating it as 'eligible leave'.

4. I do not find any non-application of mind or other discrepancies in the order. Therefore, the Writ Petition does not merit any consideration and accordingly, the same is dismissed. No costs. Consequently, connected M.P.No.1 of 2008 is closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

The Additional Director General of Police,
Law and Order,
Office of the Director General of Police,
Kamarajar Salai, Chennai 600 004.

+1cc to Mr.Sivam Sivandraj, Advocate, S.R.No.37169

+1cc to the Government Pleader, S.R.No.37381

W.P.No.23549 of 2008

PL(CO)
HS(26/08/2021)