



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.27010 of 2015

and

M.P.No.1 of 2015

V.Dhayalan

...Petitioner

-Vs-

1.The Deputy Inspector General of Police,
Vellore Range, Vellore.

2.Superintendent of Police,
District Police Office,
Sathuvachary, Vellore - 9.

3.Additional Superintendent of Police,
Prohibition, Vellore District.

...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 on the file of the 3rd respondent in proceedings P.R.No.89/2003 dated 13.11.2003 and subsequent order dated 03.06.2010 & 06.09.2010 on the file of the 2nd respondent and quash the same as illegal, unjust and consequently direct the 2nd respondent to grant the increment for the above period.

For Petitioner : Mr.R.Venkatesulu

For Respondents : Mr.C.Selvaraj
Additional Government Pleader

ORDER

With the consent of both the parties, this writ petition is taken up for final disposal.

2. Based on two charges alleging the petitioner's involvement in a criminal case and reprehensible conduct of absence, the respondents had contemplated disciplinary action by conducting an oral enquiry. The petitioner had challenged the



contemplated action before the Tamil Nadu Administrative Tribunal in O.A.No.3477 of 2003 and by an order dated 22.10.2003, the Tribunal had stayed the disciplinary proceedings till the disposal of the criminal case against the petitioner. However, the disciplinary proceedings came to be continued and a punishment of reduction in the time scale of pay by two stages for one year without affecting his future increments was imposed on 03.06.2010 by the second respondent herein. The appeal against the punishment was also confirmed by the first respondent on 21.07.2010. Challenging the action of the respondents, the present writ petition has been filed.

3. It is not in dispute that the Tamil Nadu Administrative Tribunal had granted an interim stay on 22.10.2003, refraining the authorities from proceeding with the disciplinary action pending disposal of the criminal case. While the order of stay was granted by the Tribunal, the second respondent herein was represented by a Government Advocate.

4. The enquiry report dated 13.11.2003 evidences that the petitioner herein had given a petition on 25.10.2003, stating that the Tribunal had stayed the departmental proceedings. However, the Enquiry Officer had observed that the original order copy was not produced before him and accordingly had proceeded with the enquiry and had held both the charges to be proved.

5. When the second respondent, namely the Superintendent of Police, was a party respondent in the proceedings before the Tribunal and was also represented by a Government Advocate, the Enquiry Officer cannot take a plea that the original order copy of stay granted by the Tribunal was not produced by the petitioner. There is a presumption that the second respondent was aware of the interim orders of stay granted by the Tribunal on 22.10.2003, in view of their representation before the Tribunal on the said date when the stay order was passed.

***6. When the departmental proceedings itself has been stayed on 22.10.2003, any further action pursuant to 22.10.2003 would stand vitiated and cannot be sustained. Consequently, the punishment order dated 03.06.2010 and all other orders passed pursuant to the punishment will be illegal. On this sole ground, the petitioner would be entitled to succeed.**

7. In the light of the above observations, the impugned orders dated 22.10.2003, 03.06.2010 and 06.09.2010 are quashed. Consequently, there shall be a direction to the respondents herein to pass appropriate orders, revising the pension of the petitioner in accordance with the orders passed today. The respondents shall endeavour to pass such orders within a period of 60 days from the date of receipt of a copy of this order.



8. The Writ Petition stands allowed, accordingly. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar (CS-III)

**Deleted and substituted as
per order of
this Court dated 27.01.2022
-s/d-
Assistant Registrar (CS-III)
dt 04.01.22**

/True Copy//

Sub Assistant Registrar

hvk

To

1. The Deputy Inspector General of Police,
Vellore Range, Vellore.

2. Superintendent of Police,
District Police Office,
Sathuvachary, Vellore- 9.

/ to be substituted the order
already despatched on 04.1.22

3. The Additional Superintendent of Police,
Prohibition, Vellore District.

+2ccs to M/s. Usha Ramman, Advocate SR. No. 69328 & 68594
+1cc to Government Pleader SR. No. 69607

W.P.No.27010 of 2015
and
M.P.No.1 of 2015

EV (CO)
PR (04/01/2022)
A.SK(02.02.2022)