

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.03.2021

CORAM:

The HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.8157 of 2021

D.Kosalram

... Petitioner

-vs-

1. The Principal Secretary to Government,
Home (Police) Department,
Fort St. George, Chennai - 600 009.
2. The Police Commissioner,
Office of Commissioner of Police Chennai,
E.Va.Ra.Road, Veppari,
Chennai - 600 007. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the respondents to consider the representation dated 19.01.2021 for promoting the petitioner to 'Sub Inspector of Police' on par with junior along with all benefits such as payment of salary, Increment, Dearness Allowance, Backwages for the period from 2002 to 2007, all consequential Service benefits, Bonus, Medical benefits, other allowances, etc, and for extension of service with service benefits beyond the date of superannuation till the actual date of revocation of suspension, within a stipulated time.

For Petitioner : Mr.K.Chandrasekaran

For Respondents: Mr.J.Pothiraj
Special Government Pleader

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O R D E R

This Writ petition is filed, seeking a direction to the respondents to consider the representation dated 19.01.2021 for promoting the petitioner to 'Sub Inspector of Police' on par with junior along with all benefits such as payment of salary, Increment, Dearness Allowance, Backwages for the period from 2002 to 2007, all consequential Service benefits, Bonus, Medical benefits, other allowances, etc, and for extension of service

with service benefits beyond the date of superannuation till the actual date of revocation of suspension, within a stipulated time.

2. Mr.J.Pothiraj, learned Special Government Pleader takes notice for Respondents. By consent, the Writ Petition is taken up for final disposal at the admission stage.

3. The brief facts of the case are that while the petitioner was working as Head Constable in the year 2002, he was suspended from service for the alleged offence of getting bribe and a criminal case has been registered in Crime No.8/AC 2002/CCIII. In this circumstances, the petitioner had approached this Court by filing Writ petition W.P.No.3360 of 2006 to consider the representation with regard to revocation of suspension. This Court by an order dated 24.06.2010 allowed the Writ Petition and pursuant to which, the petitioner was reinstated into service and permitted to continue his service. While that being so, when the petitioner attained the age of superannuation, the 2nd respondent by an order dated 29.01.2015 issued a suspension order on the ground that SPL CC No.127 of 2011 is pending for trial. However, by an order dated 29.08.2019 in CC. No.127 of 2011, the learned Special Judge has acquitted the petitioner from the charges alleged. Thereafter, the petitioner made several representation seeking for service benefits due to him. As there was no response on the representations, the petitioner is before this Court with the aforesaid relief.

4. Considering the facts and circumstances of the case and taking into account the fact that the petitioner's representation is already pending with the respondents, the Writ Petition is disposed of with the following directions:

i) A direction is issued to the respondents herein to consider the representation preferred by the petitioner dated 19.01.2021, if not disposed of earlier, and pass appropriate orders thereon, in accordance with law, after affording an opportunity of hearing to the petitioner and other persons, if any, who are likely to be affected, as expeditiously as possible, preferably within a period of 90 days from the date of receipt of a copy of this order;

ii) In case the petitioner is unable to appear for personal hearing, the petitioner is entitled to send a written submission within a period of one month from the date of receipt of a copy of this order through registered post or speed post and the same shall be treated as personal hearing. It is made clear that the petitioner can avail the opportunity of either personal hearing or filing written submission and not both;

iii) In case the petitioner fails to appear or file a written submission in time, the respondents shall pass orders based on the available records and the petitioner, cannot at a later point of time take a stand that opportunity of being heard is not given to the petitioner;

iv) The petitioner shall furnish Mobile Number, email ID, if any, etc., along with a copy of the representation dated 19.01.2021 and this order, to the respondents forthwith;

v) The respondents are directed to communicate the decision taken on the representation, to the petitioner within a period of three weeks from the date of decision taken thereon, by way of SMS/Email/registered post/speed post, so that there is no need for the petitioner to file contempt after expiry of the specified period. In case the authorities concerned fail to send communication to the petitioner, they will have to face the civil imprisonment in case of contempt proceedings. If they are unable to serve the order and the cover being returned un-served for one reason or the other, the same shall be kept in the file without opening it for the proof of delivery, so that the petitioner, later on, will not take a plea that the petitioner is not aware of the order. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

vum
To

1. The Principal Secretary to Government,
Home (Police) Department,
Fort St. George, Chennai - 600 009.
2. The Police Commissioner,
Office of Commissioner of Police Chennai,
E.Va.Ra.Road, Veppari, Chennai - 600 007.

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