



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.11.2021

CORAM:

THE HONOURABLE DR JUSTICE ANITA SUMANTH

W.P. (MD) No.779 of 2018

WEB COPY

A.Mathias (HC 8635) (Died) ... Petitioner

M.Mabel Beulah ... LR of the deceased Petitioner
(Substituted vide order dated 16.11.2021 made in W.M.P(MD) No.7045
of 2020 in W.P(MD)No.779 of 2018)

Vs.

1.The State of Tamil Nadu,
Represented by the Secretary to Government,
Home Department, ST.George Fort,
Chennai.

2.The Commissioner of Police,
Chennai City, Chennai.

3.The Deputy Commissioner of Police,
Flower Bazaar District, Chennai.

4.The Joint Commissioner of Police,
North Zone, Chennai.

5.The Assistant Commissioner of Police,
High Court Range, Chennai. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of Certiorarified Mandamus to call for the records relating to the impugned order passed by the third respondent in PR.No.34/PR.N(1)/2015/ U/13(b) dated 20.02.2017 and consequent struck off order passed by the third respondent in C.No.PR.N(1)PR.No.34/2015 N.2 O.No.310/2017 dated 12.05.2017 and quash the same and further directing the respondent to disburse the petitioner's pension benefits.



For Petitioner : Mr.R.Balakrishnan

For Respondents: Mr.S.Nedunchezian

Government Advocate

O R D E R

WEB COPY The petitioner joined duty on 25.10.1984 as Police Constable. He was transferred to serve in the Central Bureau of Investigation in 1987 and remained there till 31.12.1992, when he was re-assigned to duty as Police Constable at Arumbakkam Police Station from and on 01.01.1993.

2. On 30.03.2004, the petitioner availed casual leave that he extended thereafter, citing ill-health. He underwent medical examination and on the basis of the Fitness Certificate issued to him, reported back to duty on 20.04.2004. He alleges that he was not permitted to join duty and draws the attention of the Court to a copy of his leave passport and to markings made thereupon using white fluid.

3. According to him, though he was originally permitted to join duty, the permission granted was struck off by the authority using whitener, thus, establishing his allegation that he had been prevented from joining duty. This point however becomes immaterial in view of the events that have transpired thereafter.

4, Though the petitioner would refer to various communications and representations, exchanged between himself and the authorities, the fact remains, and this is an admitted position, that he did not report for duty thereafter. Thus, the petitioner has not been in the service of the Police Department from 1st of April 2004. In 2005, he suffered a grievous accident, on account of which his right leg was amputated below the knee.

5. A charge memo had originally been issued to him on 18.01.2007 which culminated after enquiry, in order dated 23.07.2007, permitting him to rejoin duty with immediate effect. The petitioner alleges that this order was never served upon him.

6. The petitioner thereafter filed a writ petition in W.P.No.17189 of 2013, wherein he had sought a mandamus directing the respondents to permit him to join duty at B-1-North Beach Police Station, Chennai. This Writ Petition was rendered infructuous by virtue of the order of suspension that had come to be passed by the respondent on 30.03.2015. The petitioner made a representation before the fourth respondent seeking service benefits in regard to the period when he served with the Department.

7. The aforesaid order of suspension had been preceded by a charge memo, that levelled the following charges as against the petitioner, being prolonged absence for more than 21 days amounting to desertion and refusal to receive various notifications, slips and orders issued by the Department forcing the authorities to paste the same upon his doors of his residence.



8. The petitioner offered an explanation to the effect that he had shifted his residence, which was why he had not been in a position to receive the order/ notices issued by the respondent. However, there is nothing on record that would support the aforesaid submission.

9. In light of the discussion as above, I find no justification whatsoever to interfere with the impugned proceedings. No doubt, the authorities have not been prompt in taking action in the present case, insofar as the impugned order has been passed only in 2015, dismissing the petitioner from service, when the same could well have been passed at any time after 2005, seeing that the petitioner did not report for duty after the 1st of April 2005.

10. The lethargy displayed by the respondents would not serve to justify intervention in the impugned order as no case has been made out for warranting such intervention. This Writ Petition deserves to be dismissed and I do so.

11. The learned counsel for the petitioner would state that certain service benefits in terms of arrears and salary due to the petitioner are pending. The petitioner given liberty to make a representation before the Director General of Police seeking pay-over of such benefits to him;

12. This Writ Petition is dismissed. No costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

CM

To,

1. The Secretary to Government,
Home Department,
ST. George Fort,
Chennai.

2. The Commissioner of Police,
Chennai City, Chennai.

3. The Deputy Commissioner of Police,
Flower Bazaar District, Chennai.



4.The Joint Commissioner of Police,
North Zone, Chennai.

5.The Assistant Commissioner of Police,
High Court Range,
Chennai.

+1 CC to M/s.SPL GP (SR-34728[F] dated 17/11/2021)

W.P. (MD) No.779 of 2018

16.11.2021

MSK(CO)
GC(23.12.2021) 4P 7C