



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.11.2021

CORAM

THE HONOURABLE MRS.JUSTICE **S.SRIMATHY**

W.P.(MD)No.4233 of 2016

and

W.M.P.(MD)Nos.3769 and 3770 of 2016

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Lakshmanan

... Petitioner

vs.

1.The Principal Secretary/
Secretary to Government,
Home Department (Police),
Fort.St.George, Chennai - 9.

2.The Inspector General of Police,
Law & Order, Chennai - 4.

3.The Commissioner of Police,
Tirunelveli City Police,
Palayankottai, Tirunelveli - 2.

4.The Deputy Commissioner of Police(L&O),
Tirunelveli City Police,
Tirunelveli - 2.

... 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 from the first respondent relating to his impugned order passed in G.O.No.2(D) 297, dated 26.08.2015, to quash the same and consequently to direct the respondents to confer all benefits to the petitioner including promotional and monetary benefits from the date of punishment of stoppage of increment of pay for one year imposed on the petitioner by the fourth respondent from 21.12.1998.

For Petitioner : Mr.P.Senthurpandiyan

For Respondents : Mr.R.Ragavendran

Government Advocate (Civil Side)

O R D E R

This Writ Petition is filed for issuance of a Writ of Certiorarified Mandamus, to call for the records from the first respondent relating to his impugned order, dated 26.08.2015, to quash the same and consequently to direct the respondents to confer all benefits to the petitioner including promotional and monetary benefits from the date of punishment of stoppage of increment of pay for one year imposed on the petitioner by the fourth respondent from 21.12.1998.

2.The petitioner was working as a Special Sub Inspector of



Police in the Police Control room in Palayankottai. Initially he was appointed as Police Constable Grade-II on 26.12.1985 and promoted as Grade-I in the year 1988 in the Armed Reserve Police, Tirunelveli. While the petitioner was serving as a Grade-I Police Constable, a single charge was framed against the petitioner for negligence in performing the duty in Tirunelveli Medical College Hospital as a prison Cell-Guard from 26.05.1998 to 27.05.1998 which enabled three prisoners to escape from the police custody, in P.R.No.51/98 under rule 3(e)(1)(1) of Tamilnadu Police Service (Discipline and Appeal Rules). For this incident, seven Police Constables were facing disciplinary proceedings along with the petitioner, namely, Senthatti, Senthil, Rajan, Arunachalam, Krishansamy, Subramaniyaboopathi and Selvamurugan in P.R.Nos.45/98, 50/98, 52/98, 53/98, 54/98 and 55/98 respectively.

3.Then, an Enquiry Officer was appointed and the charges were held as proved against all the delinquents. Then, the Appointing Authority has imposed a punishment of reduction in pay for one stage for one year without cumulative effect, vide order, dated 21.12.1998 and the same punishment was imposed on the other delinquents also.

4.Heard Mr.P.Senthurpandiyan, learned Counsel appearing for the petitioner and Mr.R.Ragavendran, learned Government Advocate appearing for the respondents.

5.The learned Counsel appearing for the petitioner submitted that the other delinquent has challenged the same in a Writ Petition. One of the delinquent, namely, Subramaniyaboopathi, has filed W.P.(MD)No.10871 of 2006, wherein, this Court has allowed the Writ Petition. In the Writ Petition, the challenge was against the Appellate order passed in G.O.(2D)No.405, Home (POL VI) Department, dated 03.12.2002 and consequential order for promotion. The relevant portion of the order is extracted below:

"13.For these reasons, the impugned order of the first respondent, dated 03.12.2002, is set aside. But as far as the promotion aspect is concerned, if the promotion to the post of Grade I Police Constable and also the Head Constable is denied to the petitioner, basing on the punishment imposed, which is set aside in this Writ Petition, and if the petitioner is otherwise eligible, the petitioner's claim can be considered and orders shall be passed within a period of six months from the date of receipt of a copy of this order."

6.Another delinquent, namely, Senthatti has filed a Writ Petition in W.P.(MD)No.13926 of 2009 and this Court has allowed the Writ Petition. The relevant portion of the order is extracted below:

"3.The learned Counsel appearing on behalf of the



petitioner would submit that the petitioner is a co-delinquent employee. The facts and circumstances of the case set out in W.P.(MD)No.10871 of 2006 are identical to the case on hand. Further, out of the six delinquents, only three of them were punished, including the petitioner. Hence, the petitioner cannot be singled out, without proper reasons, adduced by the respondents.

4.Though a detailed counter affidavit has been filed, there is no mention as to whether the Government preferred SLP against the decision rendered in W.A.(MD)No.342 of 2008, dated 01.07.2008, nor the respondents could distinguish the case of the petitioner, except to state that the petitioner is a retired person. The judgment of the Division Bench is of the year 2008. The said order has attained finality and still, it governs the field.

5.I respectfully agree with the order of the learned Single Judge made in W.P.(MD)No.10871 of 2006, dated 29.03.2007, as well as the Division Bench of this Court rendered in W.A.(MD)No.342 of 2008, dated 01.07.2008.

6.Following the said principle, the Writ Petition stands ordered. Consequently, the connected miscellaneous petitions are closed. No costs."

7.Since the co-delinquents were granted relief of setting aside the impugned order and consequential benefits were granted, the petitioner cannot be singled out without proper reasons. Therefore, this Court following the earlier orders granted to the co-delinquents, allows the present Writ Petition by setting aside the G.O.(2D).No.297, Home (Police VI) Department, dated 26.08.2015 and consequently directs the respondents to confer all benefits to the petitioner including promotional and monetary benefits as eligible and as per law.

8.Accordingly, the Writ Petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

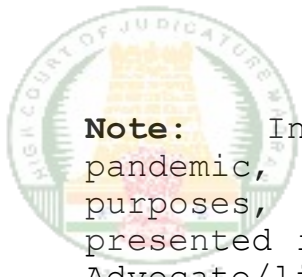
Assistant Registrar (CS-I)

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Sub Assistant Registrar(CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.

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To

- 1.The Principal Secretary/
Secretary to Government,
Home Department (Police),
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 - 2.The Inspector General of Police,
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 - 3.The Commissioner of Police,
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Palayankottai, Tirunelveli - 2.
 - 4.The Deputy Commissioner of Police(L&O),
Tirunelveli City Police,
Tirunelveli - 2.
- +1 CC to M/s.SENTHUR PANDIAN, Advocate
(SR-35714[F] dated 24/11/2021)
- +1 CC to M/s.SPL GP (SR-35650[F] dated
24/11/2021)

W.P. (MD)No.4233 of 2016
23.11.2021

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