



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.20898 of 2013

R.Azhagesan

...Petitioner

-Vs-

1. The Additional Director General of  
Police & Inspector General of Prisons,  
Chennai - 600 008.
2. The Deputy Inspector General of Prisons,  
Madurai Range, Madurai.
3. The Superintendent of Prisons,  
Madurai Central Prison, Madurai.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records of the respondents, especially the first respondent relating to his proceedings made in No.45012/EW.1/2013, dated 24.05.2013 and quash the same as null and void, illegal and invalid and consequently directing the third respondent to include the petitioner's name in the approved panel of 'Chief Head Warders' for the year 2008-2009 as S.No.7A, in between the names of S.No.7, Thiru.P.Sangiah and S.No.6, Thiru.I.I.Ramachandran according to the order of his seniority and promote him as 'Chief Head Warder' notionally with effect from 27.12.2008 apart from directing the first respondent to include the name of the petitioner in the panel of 'Chief Head Warder' fit for promotion as 'Assistant Jailors' for the year 2010-2011 with effect from 23.01.2011, as S.No.13A, in between the specific names of S.No.13, Thiru.P.Sangiah and S.No.14, Thiru.I.Ramachandran according to the order of his seniority and promote him as 'Assistant Jailor' notionally with effect from 23.01.2011 besides monetary benefits entitled to by him in the cadre 'Grade-I Warder' from 19.12.2006 to 26.12.2008 with all consequential monetary and service benefits together with all other allowances.

For Petitioner : Mr.A.Amal Raj

For Respondents: Mr.Veda Bagath Singh,  
Special Government Pleader



## ORDER

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

WEB COPY

2.The petitioner herein, who was subjected to disciplinary proceedings, was imposed with a punishment of dismissal from service on 02.11.2000. On challenge, the punishment was set aside, by an Hon'ble Division Bench of this Court in W.P.No.23277 of 2003 dated 23.11.2006 and directed the respondents to reinstate him back into service, together with all service and other attendant benefits, including seniority. The appeal against this order was dismissed by the Hon'ble Supreme Court on 25.04.2008. However, the respondents had chosen to reinstate the petitioner on 03.09.2010 only, after about 2½ years. The petitioner thereafter retired on 30.06.2016 on attaining the age of superannuation.

3.It is the submission of the learned counsel for the petitioner that since the punishment was set aside, he would be entitled for reinstatement, with effect from 02.11.2000, the date on which he was dismissed from service and therefore, he would be entitled for notional promotion to the posts of Grade-I Warder, Chief Head Warder and Assistant Jailor from the date on which his immediate junior, namely, I.Ramachandran, Grade-II Warder was appointed.

4.It is a settled proposition of law that whenever an order of punishment is set aside by the Court of law, the concerned employee is deemed to have been reinstated into service with effect from the date on which he was terminated. In the present case, when the order of dismissal was set aside by the Hon'ble Division Bench of this Court on 23.11.2006, there was a further direction to the respondents to reinstate him, together with all service and monetary benefits including restoration of the seniority. This order has become final and hence, the petitioner would be entitled for all the service and monetary benefits, with effect from 02.11.2000 onwards, including restoration of his seniority from that date.

5.It is claimed that the petitioner's immediate senior, one Thiru.P.Sangiah and his immediate junior, one Thiru.I.Ramachandran, were promoted through the same promotional panel on various dates for the posts of Grade-I Warder, Chief Head Warder and Assistant Jailor. In view of the order of the Hon'ble Division Bench restoring his seniority and directing for service and monetary benefits, the petitioner would be entitled for the notional promotion from the date on which his immediate junior Thiru.I.Ramachandran was promoted and for consequential monetary benefits.



6.The learned Special Government Pleader for the respondents placed reliance on the averments in the counter affidavit and submitted that the petitioner was reinstated into service only on 15.12.2008 and therefore, passing over of his name is not possible. He also submitted that through a letter dated 28.07.2012, the petitioner had relinquished his right for promotion as a Chief Head Warder, which was accepted by the Additional Director General of Police on 22.08.2013.

7.I am not in agreement with such a submission. When the Hon'ble Supreme Court had dismissed the respondents' appeal on 25.04.2008, thereby confirming the order of the Hon'ble Division Bench of this Court dated 23.11.2006, there was a duty cast on them to have immediately granted notional promotion to the petitioner on par with his junior. However, without adhering to such a duty, the respondents have chosen to wait till 2008 for reinstating him back into service and have now relied upon a letter dated 28.07.2012, which was given after about 4 years from the date on which their appeal was dismissed. This letter cannot supercede the orders of the Hon'ble Division Bench granting service and monetary benefits, including fixation of the seniority. In other words, the respondents would be bound to obey the order of the Hon'ble Division Bench dated 23.11.2006 and therefore, the petitioner would be entitled to be promoted to all these three posts from the date on which his immediate junior was promoted, together with all the service and monetary benefits. Thus, the reasoning adopted in the impugned order dated 24.05.2013, denying the service and monetary benefits to the petitioner, cannot be sustained.

8.In the light of the above observations, the impugned order passed by the first respondent dated 24.05.2013 is quashed. Consequently, there shall be a direction to the first respondent herein to pass appropriate orders granting notional promotion to the petitioner with effect from the date on which his immediate junior, namely I.Ramachandran, was promoted to the posts of Grade-I Warder, Chief Head Warder and Assistant Jailor, together with all the monetary benefits, including the pensionary benefits. Such an order shall be passed atleast within a period of two (2) weeks from the date of receipt of a copy of this order.

9.The Writ Petition stands allowed, accordingly. No costs.

Sd/-

Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar



1.The Additional Director General of  
Police & Inspector General of Prisons,  
Chennai - 600 008.

2.The Deputy Inspector General of Prisons,  
Madurai Range, Madurai.

3.The Superintendent of Prisons,  
Madurai Central Prison, Madurai.

+1cc to Mr.A.Amal Raj, Advocate SR. No.10508

+1cc to Government Pleader SR. Nos.11105, 11554

W.P.No.20898 of 2013

PCH (CO)  
PR (09/03/2022)