



W.P.No.26442 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.07.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

Writ Petition No.26442 of 2019

M.Suresh Kumar

.... Petitioner

-Vs-

1.State Rep.by The Secretary to Government
Home (Police) Department,
Government of Tamil Nadu
Secretariat, Chennai 600 009.

2.The Director General of Police
Mylapore, Chennai 600 004.

3.The Inspector General of Police
(L&O), Chennai 600 004.

4.The Deputy Inspector General of Police
Coimbatore Range, Coimbatore District.

5.The Superintendent of Police
Nilgiris District.

.... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the 1st respondent to consider the representation of the petitioner dated 27.06.2017.

For Petitioner : Mr.G.Saravana Kumar
For Respondents : Mr.R.U.Dinesh Rajkumar
Additional Government Pleader



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ORDER

The prayer sought for herein is for a Writ of Mandamus directing the 1st respondent to consider the representation of the petitioner dated 27.06.2017.

2. The petitioner was working as Police Constable in Armed Reserve, Ooty at Nilgiris, Uthagamandalam. While so, disciplinary proceedings were initiated against him under Rule 3(b) of the TNPSS Rules, 1995. The reason for the disciplinary proceedings is that, between 27.11.1996 and 06.12.1996 the petitioner was unauthorisedly absent from duty. The reason for unauthorised absence is that the petitioner has been implicated in a criminal case in C.C.No.578 of 1996 for the offences punishable under Section 493 and 417 of IPC.

3. Subsequently, the criminal case ended in acquittal by the order of the learned Judicial Magistrate, Palladam dated 23.11.1999 in C.C.No.270 of 1999. However, parallelly disciplinary proceedings were initiated against the petitioner, pursuant to which the petitioner had been removed from service. As against the same, the petitioner preferred an appeal to the second respondent ie., Director General of Police (DGP), who had given reasons for rejecting the said appeal that, even though in the criminal case the petitioner has been acquitted, the illicit intimacy he developed with one Pushpa was there and based on that, the



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disciplinary proceedings ended in punishment. The DGP also gave a reason that, though the petitioner had been acquitted in the year 1999, he had only chosen to file a writ petition in the year 2007. Therefore, it shows that the petitioner is not interested in pursuing his matter to get reinstated. For these two reasons, the appeal filed by the petitioner has been rejected by the DGP by order dated 25.12.2014.

4. Insofar as the rejection order is concerned, it is the case of the petitioner that immediately after the acquittal in the criminal case, the petitioner had given a representation to the respondents on 23.11.1999 to reinstate him. Since there was no reinstatement the petitioner had approached the Tamil Nadu Administrative Tribunal and filed O.A.No.5054 of 2002, which was pending for some time and thereafter since the Tribunal was closed, the matter stood transferred to this Court. Thereafter, it was renumbered as Writ Petition only in the year 2007 and was ultimately disposed of by the order of this Court dated 16.06.2014, where the Review Petition before the DGP was directed to be considered and decided on merits.

5. Therefore the reason, according to the learned counsel for the petitioner, given by the second respondent DGP in the order dated 25.12.2014 that the petitioner had belatedly approached the High Court may not be correct



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because he has approached the Tribunal in time, which was transferred to this Court and got numbered only in 2007. Therefore, merely because W.P.No.8390 of 2007 was numbered in 2007 it cannot be construed that the petitioner had belatedly approached. Therefore, citing all these reasons when the petitioner filed a further appeal or mercy petition before the Government ie., the first respondent on 27.06.2017, the same since has not been considered and kept pending, the petitioner has filed the present writ petition.

6. Reiterating the aforesaid, the learned counsel appearing for the petitioner seeks the indulgence of this Court.

7. However, Mr.R.U.Dinesh Rajkumar, learned Additional Government Pleader appearing for the respondents, has relied upon Para 16 of the counter affidavit, which reads thus,

“ 16. With regard to the averments made in Para 17 of the affidavit, it is submitted that the petitioner has sent a representation dated 27.06.2017 to the first respondent wherein he has requested the 1st respondent to reinstate him into service with all attendants benefits and quash the order pertaining to the proceedings dated 25.12.2014 by the Director General of Police, Chennai-4. The 1st respondent have carefully examined the petition along with records and rejected the same vide in G.O.(D) No.547, Home (Police-6)



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Department dated 20.03.2020.”

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8. By relying upon this averment, the learned Additional Government Pleader submits that, the appeal filed by the petitioner dated 27.06.2017 having been considered, was rejected by the first respondent by G.O.(D) No.547, Home (Police-6) Department dated 20.03.2020. It is also submitted that a copy of the order also had been communicated to the petitioner.

9. However, it is denied by the learned counsel for the petitioner that no such order ie., G.O.(D) No.547, Home (Police-6) Department dated 20.03.2020 has been served on the petitioner so far.

10. In that view of the matter, having recorded the aforesaid this Court is inclined to dispose of this writ petition with the following order.

- A copy of the order viz., G.O.(D) No.547, Home (Police-6) Department dated 20.03.2020 shall be communicated to the petitioner forthwith, as it is the claim of the petitioner that it has not been served on him.
- On receipt of such order, it is open to the petitioner to



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agitate the issue in the manner known to law.

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11. With the above directions, this writ petition is disposed of. No costs.

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Index : Yes/No
Internet : Yes/No
KST
To

- 1.The Secretary to Government
Home (Police) Department,
Government of Tamil Nadu
Secretariat, Chennai 600 009.
- 2.The Director General of Police
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R. SURESH KUMAR, J.

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