



W.P.(MD)No.20315 of 2015

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.10.2022

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.20315 of 2015

C.Ramesh

... Petitioner

vs.

1.The Superintendent of Police,
District Police Office,
Viruthunagar District,
Viruthunagar.

2.The Commandant,
Tamil Nadu Special Police XI-Battalian,
Rajapalayam,
Viruthunagar District.

3.The Deputy Superintendent of Police,
Office of the Deputy Superintendent
of Police,
Thiruchuli, Viruthunagar,
Viruthunagar District.

... 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 1st respondent in his proceedings No.C.No.



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L4/65644/1334/2014, dated 27.08.2015 and to quash the same as illegal consequentially, to direct the respondents to sanction the increment for the year 2005 to 2008 within the period that may be stipulated by this Court.

For Petitioner : M/s.R.Geethanjali
for M/s.Ajmal Associates
For Respondents : Mr.C.Baskaran
Government Advocate (Civil side)

ORDER

This writ petition is filed for issuance of a writ of Certiorarified Mandamus, to quash the impugned order dated 27.08.2015 and consequentially direct the respondents to sanction the increment for the year 2005 to 2008 within the period that may be stipulated by this Court.

2. The contention of the petitioner is that the petitioner was selected as Police Constable Grade II on 11.10.2001 and joined in service on 01.03.2002, then promoted as Grade 1 Police Constable with effect from 25.03.2013. A disciplinary proceedings was initiated by issuing charge memo, dated 06.11.2003, which ended in dismissal from service and on appeal the punishment was



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confirmed. Challenging the same, the petitioner filed W.P.(MD)No.1166 of 2006 and this Court, vide order, dated 04.01.2008 quashed the order of removal from service and directed the respondents to reinstate the petitioner without back wages, the break period shall be considered for counting the continuity of service for other service benefits. Thereafter, the petitioner was reinstated on 15.02.2008. The 2nd respondent, vide proceedings, dated 27.06.2008, has modified the punishment into that of postponement of increment for one year without cumulative effect. Thereafter, the 2nd respondent passed an order, dated 29.02.2008, treating the period of non-employment starting from 04.03.2004 to 14.02.2008 as leave without pay on private affairs. The break period was also considered for continuity of service for all other service benefits. The 2nd respondent, vide order, dated 07.07.2008, has also treated the period of suspension i.e., from 16.10.2003 to 03.03.2004) as spent on duty for all purpose.

3. The contention of the petitioner is that the petitioner was granted selection grade in the category of Grade II Police Constable with effect from



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01.03.2002 and was upgraded as Grade I Police Constable on 25.03.2013. But the petitioner was not granted any increment for the period from 2004-2008. The petitioner submitted a representation, dated 10.12.2014 and the respondents have passed the impugned order declining the increment on the ground that the petitioner was denied back wages, hence not entitled to any increment. Challenging the said order, the present writ petition is filed.

4. The learned Government Advocate appearing for the respondents submitted that the petitioner is not entitled to increment, because the back wages was denied by this Court and hence the impugned order is legally sustainable.

5. Heard Ms.R.Geethanjali, learned Counsel appearing for the petitioner and Mr.C.Baskaran, learned Government Advocate appearing for the respondents and perused the records placed before this Court.

6. The learned Counsel appearing for the petitioner submitted that if the



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petitioner was granted continuity of service, then the petitioner is entitled to all the service benefits and relied on the earlier order dated 29.02.2008 passed by the respondents, wherein it is stated as under:

*"2) The out of employment period starting from 04.03.2004 to 14.02.2008 is ordered to be treated as Leave without Pay on private affairs as per FR.53. **But the break period will be considered for counting the continuity of service for other service benefits.**"*

In the said order the respondents themselves have accepted the break period will be considered as continuity of service for other benefits, then the service benefits include increment also. Therefore, the respondents are incorrect in passing the present impugned order, which is against the earlier order dated 29.02.2008.

7. Therefore this Court is of the considered opinion that the petitioner is absolutely right in stating that the continuity of service for granting other benefits will also include increment. Hence, the petitioner is entitled to increment. The impugned order is set aside and the respondents are directed to grant increment that is applicable to the writ petition within a period of 8 weeks from the date of



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receipt of a copy of this order. With the above said observation, the writ petition is allowed. No costs.

Index : Yes / No
Internet : Yes

20.10.2022

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To

- 1.The Superintendent of Police,
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S.SRIMATHY, J

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