



WP(MD)No.13249 of 2020

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **20.07.2022**

CORAM:

THE HONOURABLE **MR.JUSTICE M.S.RAMESH**

W.P.(MD)No.13249 of 2020
and
W.M.P.(MD)No.11081 of 2020

M.Madhan Pandian

... Petitioner

/vs./

- 1.The Director General of Police,
Tamilnadu, Mylapore,
Chennai – 600 004.
- 2.The Commissioner of Police,
Head Quarters,
Tiruppur City.
- 3.The Deputy Commissioner of Police,
Law and Order (In Charge),
Head Quarters,
Tiruppur City.
- 4.The Assistant Commissioner (Traffic),
Tiruppur City,
Tiruppur.
- 5.The Assistant Commissioner,
Tiruppur South Range,
Tiruppur City.

... Respondents



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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 impugned orders in RC.No.177288/AP.I(1)/2017 dated 09.06.2018 passed by the 1st respondent and impugned order in C.No.F1/Appeal.02/2017 dated 16.06.2017 and C.No.F3/475691/2020 dated 21.05.2020 passed by the 2nd respondent and the impugned order in C.No.F1/PR41/2016 dated 19.01.2017 passed by the 3rd respondent and quash the same and consequently direct the respondents to reinstate the petitioner in service with all attendant benefits.

For Petitioner : Mr.R.Vijay Karthikeyan

For Respondents : Mr.G.Suriyananth

Additional Government Pleader

ORDER

In connection with the registration of a criminal case in Crime No.434 of 2016, charges came to be framed against the petitioner on 04.07.2016. Pursuant to an enquiry, the Deputy Commissioner of Police had imposed the punishment of removal of service. The appeal preferred before the second respondent herein was rejected on 16.06.2017. Thereafter, the first respondent herein, through an order dated 09.06.2018, had rejected the petitioner's application, which was treated as Mercy Petition. In the meantime, the criminal case in C.C.No.178 of



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2017 on the file of the Judicial Magistrate No.III, Tiruppur, had ended in acquittal on 18.09.2019. By that time, the Mercy Petition was also rejected by the first respondent herein. In this background, the petitioner herein had preferred another Mercy Petition before the first respondent, which came to be rejected on 21.05.2020 on the ground that there is no provision for entertaining the second Mercy Petition.

2.The only ground, on which the petitioner was earlier subjected to have disciplinary action was his involvement in the criminal case. Since the criminal case itself has now ended in a Judgment of acquittal, which according to the petitioner, is an Hon'ble acquittal, the petitioner seeks for a direction to the respondents to re-consider his case.

3.This Court is of the view that the impugned order of punishment as well as the rejection of the Mercy Petition on 21.05.2020 cannot be strictly found fault with. When original punishment was imposed and confirmed in appeal as well as in the Mercy Petition dated 09.06.2018, the criminal case was still pending. Likewise, the first respondent herein may not have jurisdiction to entertain a



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second Mercy Petition and therefore, the second order of rejection dated 21.05.2020 also cannot be found fault with. However, the fact remains that the petitioner has now been acquitted from the criminal charges. Since the domestic enquiry also pertains to the same criminal proceedings, I am of the view that the first respondent herein may be granted liberty to re-consider the petitioner's claim.

4. In this regard, the orders dated 09.06.2018 and 21.05.2020 passed by the first respondent herein treating the petitioner's review as Mercy Petition and rejecting the same, are set aside. Consequently, the petitioner is granted liberty to make a fresh application before the first respondent seeking for re-consideration of the original punishment imposed by the disciplinary authority, together with a copy of the Judgment of the Criminal Court, within a period of two (2) weeks from the date of receipt of a copy of this order. On receipt of such application, the first respondent herein, shall consider the petitioner's application, on its own merits and pass appropriate orders in accordance with law, within a period of twelve (12) weeks from the date of receipt of a copy of the petitioner's application.



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WEB COPY 5. This Writ Petition stands allowed accordingly. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

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Index : Yes / No

Internet : Yes / No

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M.S.RAMESH, J.

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Order made in
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