



W.P(MD)No.14156 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.11.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.14156 of 2022

and

W.M.P.(MD)No.18785 of 2022

K.Kasimayan

... Petitioner

Vs.

1.The Director General of Police,
Office of Director General of Police,
Radhakrishnan Salai,
Chennai.

2.The Deputy Inspector General of Police,
Office of the Deputy Inspector General of Police,
Theni, Dindigul,
Dindigul.

3.The Superintendent of Police,
Office of the Superintendent of Police Office,
Theni District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order of the 3rd respondent in C.No.F1/3607/2004 D.O. No:1329/2007 dated 09.11.2007 and subsequent



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order of the 3rd respondent in Na.Ka.No.F3/20835/203/2020 dated 05.01.2022

to quash the same and consequently directing the respondents to pay all monetary and pension benefits to the petitioner.

For Petitioner : Mr.S.Ramsundarvijayaraj

For Respondents : Mr.R.Suresh Kumar,
Addl. Government Pleader.

ORDER

Heard the learned counsel on either side.

2.The writ petitioner joined Police Department as Grade-II Constable on 12.04.1979. He became Grade-I Constable in the year 1995 and Head Constable on 08.12.1999. He was involved in Crime No.10 of 1999 registered on the file of Kanavilaku Police Station. The case culminated in C.C.No.147 of 2001 on the file of learned Judicial Magistrate, Andipatti. The petitioner was convicted and sentenced vide judgment dated 22.10.2007. In view of the same, the petitioner was dismissed from service vide order dated 24.11.2007. Questioning the conviction, the petitioner filed C.A.No.42 of 2007 before the learned Additional District Sessions Judge (Fast Track Court), Periyakulam. The appeal was dismissed. Challenging the same, the petitioner filed



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CrI.R.C.(MD) No.118 of 2010 before this Court. Vide order dated 10.09.2019, the judgments passed by the Courts below were set aside and CrI.R.C.(MD)No.118 of 2010 was allowed. As a result, the conviction and sentence imposed on the petitioner were set aside.

3.Citing the said order, the petitioner applied for relief before the disciplinary authority. It was rejected by the impugned order dated 05.01.2022. Challenging the same, the present writ petition came to be filed.

4.The learned counsel for the writ petitioner reiterated all the contention set out in the affidavit filed in support of the writ petition and grant the relief as prayed for.

5.The respondents have filed counter affidavit and the learned Additional Government Pleader took me through its contents and submitted that the impugned order does not call any interference.

6.I carefully considered the rival contentions and went through the materials on record. The writ petitioner was dismissed from service only by virtue of conviction and sentence imposed by the competent Criminal Court.



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Once it was set aside by the High Court in exercise of revisional jurisdiction, the consequence is automatic. The petitioner reached the age of superannuation on 31.12.2014. The petitioner through his counsel submitted that he would not press for backwages for the period from the date of dismissal till the date of reaching the age of superannuation. However, he called upon this Court to treat the said period as on duty for all other purposes. The contention advanced by the learned counsel for the writ petitioner is sound.

7. Police Standing Orders 67 (1) and (5) read as under:-

*“67. **Procedure after acquittal** — The Government have issued the following orders in the matter of reinstatement of a Government Servant kept under suspension pending a criminal proceeding against him and of holding a departmental enquiry into the conduct of an officer who has already been tried in a Criminal Court on the facts, which formed the basis of the charge against him. [G.O. Ms. No. 186, Judi, 21st January 1884]*

(1) When a Police Officer has been tried and acquitted by a Criminal court or has had his conviction quashed on appeal, he should ordinarily be reinstated.

(5) If a Police Officer has been punished on the basis of his conviction in a criminal court, and if the conviction itself is later on set aside by another Court, the punishment awarded to the police officer may be set aside by an authority not lower in rank than the highest among the officers who have either awarded the original



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penalty or have revised it suo-motu or on an appeal or petition from the Police officer concerned in respect of that penalty.”

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8.In this case, the question of reinstatement will not arise because the petitioner had already reached the age of superannuation. However, the order of dismissal has to be set aside and the petitioner has to be given all the consequential benefits. In this view of the matter, the order impugned in this writ petition is set aside and the respondents are directed to treat the petitioner as having retired on 31.12.2014. Appropriate proceedings will be issued in this regard by the third respondent. The period from the date of dismissal till 31.12.2014 will be treated as on duty for the purpose of computing the other benefits. What is denied is only backwages for the aforesaid period. The necessary proposals for payment of pension will be prepared at the earliest and all the benefits payable to the petitioner will be disbursed within a period of twelve weeks from the date of receipt of a copy of this order.

9.The writ petition is allowed accordingly. No costs. Consequently, connected miscellaneous petition is closed.

10.11.2022

Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.

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