



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **27.04.2022**

CORAM :

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P(MD) .No.24214 of 2018

and

W.M.P(MD) .Nos.21899 to 21901 of 2018

WEB COPY

V.Murugesan

... Petitioner

Vs.

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

2.The Deputy Inspector General of Police,
Dindigul Range, Dindigul.

3.The Deputy Inspector General of Police,
Madurai Range, Madurai.

4.The Superintendent of Police,
Madurai District, Madurai.

5.The Deputy Superintendent of Police,
Peraiyur Sub Division,
Madurai District.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned orders passed by the fourth respondent in C.No.F11 P.R.No.69/2006, dated 14.02.2011, the second respondent in C.No.A4/4504/SM77/2011, dated 08.08.2011 and the first respondent in RC.No.045765/87/AP.II(3)/2013, dated 03.11.2016, and quash the same as illegal and further direct the fourth respondent to provide due promotion to petitioner as per the service records along with monetary benefits.

For Petitioner : Mr.S.M.Anantha Murugan

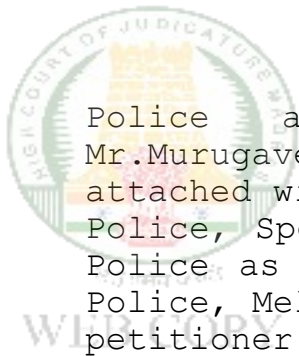
For Respondents : Mr.P.Thambidurai

Government Advocate (Civil Side)

O R D E R

This writ petition has been filed for a writ of Certiorarified Mandamus to quash the impugned orders passed by the fourth respondent in C.No.F11 P.R.No.69/2006, dated 14.02.2011, the second respondent in C.No.A4/4504/SM77/2011, dated 08.08.2011 and the first respondent in RC.No.045765/87/AP.II(3)/2013, dated 03.11.2016 and further direct the fourth respondent to provide due promotion to petitioner as per the service records along with monetary benefits.

2.The petitioner while he was working in the Armed Reserve Police, Madurai District on 17.09.2002, the duty Sub Inspector of



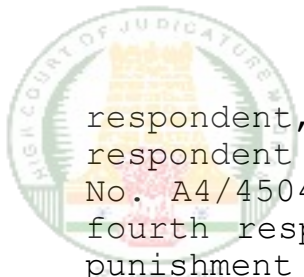
Police appointed the petitioner for VIP-PSO duty to Mr.Murugavelrajan, Former MLA of Vanthavasi Constituency, who was attached with Pattali Makkal Katchi. On 05.10.2003, the Inspector of Police, Special Branch, Madurai appointed one Mr.Jeyaraman, Grade I Police as PSO of the Ex.MLA. On 17.01.2006, the Sub Inspector of Police, Melur appointed the petitioner as PSO of the Ex. MLA and the petitioner discharged his duty properly.

3.On 22.06.2005, the said Mr.Murugavelrajan, sitting MLA of Vanthavasi Constituency went to E.Aavarampatti Village, Nilakkottai Taluk, Dindigul District to participate in the funeral function of his maternal grandmother. The petitioner went along with him as his security. On that day, a dispute arose between the Scheduled Caste and non-Schedule Caste people. The said Mr.Murugavelrajan lodged a complaint before the Inspector of Police, Vilampatti Police Station and upon receiving the complaint, the police registered an FIR against more than 200 persons in Crime No.92 of 2005 for the offences punishable under Sections 147, 148, 336, 323, 324, 427, 379 of IPC (NP) and Section 3 (1) (X) of SC/ST Act.

4.On 24.07.2005, when the said MLA was proceeding towards Dindigul, while his car was crossing Aavarampatti Village, few persons attacked his car unexpectedly. The petitioner and one Mr.Govindarajan protected the MLA by discharging their duties. In respect of this occurrence on 24.07.2005, the said MLA lodged a complaint before the Superintendent of Police, Dindigul. The police registered a FIR in Crime No.182 of 2005, in which the petitioner had been arrayed as A10 at the time of filing charge sheet but the petitioner's name was not mentioned in the FIR. The Ammaiyanayaknoor Police filed charge sheet and it was taken on file of the learned Judicial Magistrate, Nilakkottai as C.C.No.178 of 2006 and after full trial, the learned Judicial Magistrate, Nilakkottai acquitted the petitioner vide judgment dated 25.08.2010.

5.The fourth respondent initiated a departmental proceeding in PR.No.69 of 2006 under Rule 3 (b) of the TNPSS (D&A) Rules, 1955. Thereafter, the enquiry officer conducted an enquiry and submitted his report on 01.02.2008. The fourth respondent did not pass any order on the report. In such circumstances, the fourth respondent vide order dated 31.03.2009, upgraded sixteen Grade I Police as Head Constables and because of pendency of PR No.69 of 2006, the petitioner's name was not considered for up gradation to the post of Head Constables. The fourth respondent ought to have upgraded the petitioner as Head Constable on 25.10.2008. Since the fourth respondent had not passed any order in pursuance of the fifth respondent's report, the petitioner should have been upgraded the petitioner to the post of Head Constable but he failed to do so.

6.However, the fourth respondent vide his order dated 14.02.2011 reduced the petitioner's time scale pay by three stages with cumulative effect. Thereafter, the second



respondent, who was holding the additional charge of the third respondent in the relevant point of time vide his proceedings in C. No. A4/4504/SM-77/2011, dated 08.08.2011, based on the order of the fourth respondent, by invoking his suo-motu power and modified the punishment that of postponement of increment for one year without cumulative effect. The second respondent while passing his review order, failed to see that the criminal case which was pending against the petitioner, ended with acquittal.

7. Therefore, the petitioner preferred an appeal before the first respondent and prayed to cancel the punishment imposed on the petitioner and it was rejected vide order, dated 03.11.2016 on the ground that the criminal case ended with acquittal cannot be accepted as it requires high standard of proof for conviction in criminal Court and it is not necessary for finding a person guilty in a disciplinary enquiry. Aggrieved over the punishment order and the consequential fact of not granting promotion, the petitioner has preferred this writ petition.

8. The fourth respondent has filed counter stating that the petitioner did not discharge his official duty properly and sincerely. When the petitioner was working in the Armed Reserve, Madurai as VIP-PSO to MLA and on 24.07.2005, the petitioner along with Mr. Murugavelrajan former MLA went to Kalladipatti Village. In front of the Paramasivam Tea Shop one Murugan S/o Mayandi Thevar was assaulted by the petitioner along with the other accused and caused injury. The petitioner who is working in the Police Department instead of preventing the law & order problem, he along with the group assaulted Murugan and for this, a case was registered in Ammayanaikanur Police Station. After thorough investigation, the investigating officer has filed charge sheet before the Court, wherein, the petitioner was arrayed as A-10 in the charge sheet since the petitioner has committed the offence.

9. The petitioner was awarded with the punishment of reduction in pay by three stages for three years with cumulative effect and on suo-moto review, the above punishment was modified into that of postponement of increment for a period of one year without cumulative effect. Aggrieved over the same, the petitioner preferred an appeal and the same was rejected. The appellate authority has passed a detailed order, wherein, it has been stated that the criminal case ended in acquittal, as the charges have not been proved beyond reasonable doubt. The petitioner's contention to drop action in the PR is not acceptable, as there is no need to drop action in the departmental proceedings even when the criminal case ended in acquittal. Because, a criminal Court requires high standard of proof for conviction while such proof is not necessary for findings a person guilty in a disciplinary enquiry. In a disciplinary proceedings, it is preponderance of probabilities which matters to fix the delinquent's guilt. Therefore, the appellate

<https://hccservices.hccs.gov.in/hccservices> rejected the petitioner's appeal.



10. Heard the learned counsel for the petitioner, the learned Government Advocate for the respondents and perused the materials on record.

11. It is seen from the records that the petitioner was discharging his duties as Personal Security Officer to the Ex-MLA. The contention of the petitioner is that he was not arrayed as accused while filing the FIR but subsequently, in the charge sheet, the petitioner was arrived as Accused 10. The petitioner while discharging his duty as Personal Security Officer, there was a dispute with the said Murugan. The allegation against the petitioner is that the petitioner along with others beaten the Murugan. The contention of the petitioner is that he has not beaten the Murugan but he was standing in the spot but the respondents without any records they included the petitioner's name in the charge sheet. The learned Judicial Magistrate has held that the petitioner is not involved in the alleged offence. In such circumstances, the punishment of stoppage of increment for one year without cumulative effect is erroneous. Moreover, the petitioner has served in service and has spotless carrier. The impugned punishment is affected the petitioner for his future promotions.

12. On seeing the record, the respondents have not taken into account the acquittal order passed by the criminal Court. Even though, the proof is necessary for convicting the person in criminal Court. The observations made in the Criminal Court can be considered while deciding the issues in the disciplinary proceedings. Therefore, this Court is of the considered opinion that the punishment is liable to be interfered more so, when it is affecting the promotion of the petitioner. Therefore, the impugned order is liable to be set aside and hence the impugned order is set aside. The respondents are directed to implement the order with all the consequential benefits. The petitioner's name shall be considered in the list of promotion if the petitioner is otherwise eligible. The said exercise shall be completed within a period of eight weeks from the date of receipt of copy of this order.

13. With this above direction, the writ petition stands allowed. No costs. Consequently, the connected miscellaneous petitions are closed.

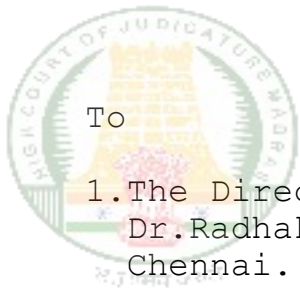
Sd/-

Assistant Registrar (CS-I)

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/ /2022

Sub Assistant Registrar(CS)



To

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

2.The Deputy Inspector General of Police,
Dindigul Range,
Dindigul.

3.The Deputy Inspector General of Police,
Madurai Range,
Madurai.

4.The Superintendent of Police,
Madurai District,
Madurai.

5.The Deputy Superintendent of Police,
Peraiyur Sub Division,
Madurai District.

+1 CC to M/s.S.M.ANANTHA MURUGAN, Advocate (SR-22287[F] dated 28/04/2022)

+1 CC to M/s.SPL.GP. (SR-22061[F] dated 28/04/2022)

W.P(MD)No.24214 of 2018
27.04.2022

RS (31.05.2022) 5P-8C