



W.P.(MD).No.22198 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 15.12.2022

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

**W.P.(MD).No.22198 of 2015
and
W.M.P.(MD).No.2359 of 2016**

C.Daniel

... Petitioner

Vs.

1.The State of Tamil Nadu,
Represented by its Home Secretary,
Fort St.George,
Chennai – 9.

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

3.The Superintendent of Police,
Kanyakumari District,
Kanyakumari.

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

5.The Deputy Superintendent of Police,
Maniyatchi Sub Division,
Thoothukudi District.

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records of the impugned proceedings C.No.F3/27819/2015 dated 08.07.2015 issued by the fourth respondent and quash the same as illegal and consequently direct the respondents 1 to 4 to pay two increments which falls on 01.07.2015 within a stipulated time as fixed by this Court.

For Petitioner : Mr.D.Saravanan

For Respondents : Mr.N.Muthu Vijayan,
Special Government Pleader.

ORDER

This Writ Petition is filed to quash the impugned order dated 08.07.2015 with consequential prayer to grant two increments which falls on 01.07.2015.

2. The brief facts as stated in the affidavit are that the petitioner was appointed as Grade-II Police Constable on 01.04.1981 and was subsequently promoted as Special Sub-Inspector of Police. The petitioner faced disciplinary proceedings and imposed a punishment of stoppage of increment for one year without cumulative effect and the period of punishment is from 21.08.2013 to 21.08.2014. Subsequently, the petitioner attained superannuation on 30.06.2015



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and the next increment falls on the next date that is on 01.07.2015. Based on G.O.Ms.No.311 Finance (CMPC) Department dated 31.12.2014, a Government servant whose increment falls due on the day following superannuation on completion of one full year of service, he shall be sanctioned with one notional increment for the purpose of pensionary benefits and not for any other purpose. Since this Government Order is applicable to the petitioner, the petitioner submitted representation to the respondents and the same was declined through impugned order. Aggrieved over the same, the present Writ Petition is filed.

3. The respondents have filed a detailed counter affidavit stating that under Fundamental Rule 24, if the petitioner availed subsequent leave while the punishment is subsisting, the petitioner is not entitled to. Therefore, the respondents prayed to dismiss this Writ Petition.

4. Heard Mr.D.Saravanan, learned counsel for the petitioner and Mr.N.Muthu Vijayan, learned Special Government Pleader for the respondents and perused the records.



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5. The relevant portion of the Fundamental Rule 24 is extracted hereunder:

“If a Government servant avails leaves during the period of punishment, the period of punishment shall be extended. If during such extended period, he again goes on leaves, the increment shall be postponed further corresponding to the period of leave availed by him during the extended period of punishment”.

6. The only reason that is stated by the respondents is that because the petitioner availed leave during the subsisting punishment period, the petitioner is not entitled to. However, such allegation is refuted by the petitioner stating that he had availed leave subsequent only. The period of punishment is 21.08.2013 to 21.08.2014. The petitioner has availed leave from 10.10.2014 to 09.10.2015 and 23.05.2015 to 08.05.2015. Since the leave has been availed subsequent to the punishment period, the claim of the respondents is erroneous.

7. Therefore, this Court is of the considered opinion that the petitioner has not availed leave, during the punishment was subsisting and hence the petitioner is entitled to one increment as per G.O.Ms.No.311 Finance (CMPC) Department dated 31.12.2014. The impugned order dated 08.07.2015 is



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quashed and the respondents are directed to confer one set of increment to the petitioner and consequently pensionary benefits shall be disbursed. The said exercise shall be completed within a period of eight (8) weeks from the date of receipt of a copy of this order.

8. With the above direction, this Writ Petition is allowed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes / No
Internet : Yes/ No
Nsr



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S.SRIMATHY, J.

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