



W.P.No.13793 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.01.2023

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THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.13793 of 2016
and W.M.P.No.12105 of 2016

T. Suresh Kumar

... Petitioner

Vs.

The Commandant,
Tamil Nadu Special Police XI Battalion,
Rajapalayam.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records of the respondent in connection with the impugned orders passed by the respondent in Na.Ka.No.T1/10293/2015 dated 13.11.2015 and Na.Ka.No.T1/12155/2015 dated 17.11.2015 and quash the same and direct the respondent to treat the same for continuity of service and fix the salary and grant the petitioner other benefits including promotion at par with his junior notionally.

For Petitioner : Mr.K. Venkataramani
Senior Counsel
for Mr.M. Muthappan

For Respondent : Mr.K.H. Ravikumar
Government Advocate



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ORDER

The petitioner herein while serving as a Grade - II Police Constable, was on unauthorised absence from 05.07.1998 to 31.07.1998, owing to which, he was declared as a deserter. Originally he was imposed with a punishment of removal from service on 11.05.1999. While challenging the order of punishment before this Court, the punishment was set aside by this Court in its order dated 24.06.2014 passed in WP.No.15712 of 2012. The relevant portion of the order reads as follows:-

.... *“9. Therefore, following the above principle laid by the Division Bench, I am inclined to set aside the impugned order passed against the petitioner herein as the punishment is disproportionate to the charge levelled against the petitioner and consequently set aside the impugned order and direct the *first respondent herein to reconsider the matter with regard to the quantum of punishment imposed on the petitioner and to take a decision, within a period of six weeks from the date of receipt of a copy of the order. It is made clear that in the event of quantum of punishment imposed on the petitioner is reduced, he shall not make any claim with regard to the wages for the period, as he has not performed his duty, but the continuity of his service will not be affected....”*

(emphasis supplied)



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2. In accordance with the direction of this Court, the respondent herein had passed a revised punishment order on 15.09.2014, awarding the punishment of postponement of next increment for one year without cumulative effect from the date of the order. The desertion period was ordered to be treated as eligible leave. When the petitioner had sought for revocation of the revised punishment and for extending the continuity of his service for the period between 11.05.1999 to 07.09.2014 (since he was reinstated with effect from 08.09.2014), his request came to be rejected through the impugned order dated 13.11.2015, refusing to interfere with the revised punishment and by an another order dated 17.11.2015, the petitioner's request for continuity of his service, was rejected on the ground that the High Court in its writ order had not directed for extension of continuity of service. Challenging these two impugned orders, the present Writ Petition has been filed.

3. The learned senior counsel appearing for the petitioner submitted that he is not pressing the relief insofar as challenging the impugned order dated 13.11.2015 whereby, the revised punishment of stoppage of



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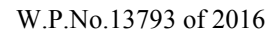
increment for a period of one year without cumulative effect was passed.

However, he placed reliance on the earlier order of this Court dated 24.06.2014 passed in WP.No.15712 of 2012 and submitted that when there was a direction for extension of continuity of service, the subsequent impugned order dated 17.11.2015, refusing to extend the same, cannot be sustained.

4. On the other hand, the learned Government Advocate placed reliance on the averments of the counter-affidavit and submitted that in the light of the earlier direction issued by this Court in its order dated 24.06.2014, the petitioner was reinstated back into service on 08.09.2014 and since his name was kept in the seniority list in the original place, his continuity of service was not effected.

5. I am not in agreement with the reasoning adopted by the respondent in the impugned order dated 17.11.2015.

6. A perusal of the order passed by this Court in WP.No.15712 of 2012, which has been extracted above, clearly indicates that the continuity



7. In the result, the impugned order dated 17.11.2015, are hereby
ed. Consequently, there shall be a direction to the respondent herein,
ss appropriate orders, in the light of the observations and findings



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made by this Court, as well as in the earlier order passed by this Court for the purpose of grant of his service benefits for the period between 11.05.1999 to 07.09.2014, including notional pay fixation and notional promotion, but without the arrears of salary. Such orders shall be passed atleast within a period of four (4) weeks from the date of receipt of a copy of this order. In view of the submission of the learned senior counsel for the petitioner that he is not pressing for the relief as against the impugned order passed on 13.11.2015 is concerned, no interference is required.

8. Accordingly, the Writ Petition stands allowed. No costs.
Connected miscellaneous petition is closed.

30.01.2023

Speaking/Non-speaking Order
Neutral Citation: Yes/No
Index: Yes/No
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To

The Commandant,
Tamil Nadu Special Police XI Battalion,
Rajapalayam.



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M.S.RAMESH,J.

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