



W.P.No.6251 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.10.2023

CORAM

THE HONOURABLE MS. JUSTICE R.N.MANJULA

W.P.No.6251 of 2021

G.S.Magesh

... Petitioner

Vs.

1.The Additional chief Secretary to Government,
Home (POL-VI) Department,
Government of Tamil Nadu,
Fort St. George,
Chennai 600 009.

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

3.The Superintendent of Police,
Tuticorin.

4.The Superintendent of Police,
Kanyakumari District,
Nagercoil 629 001.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records relating to the proceedings G.O.(D).No.148 Home (POL-VI) Department,



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dated 29.01.2020, on the file of the first respondent herein and to quash the same and direct the respondents to regularize the services of the petitioner, with all such monetary and other service benefits and continuous service within a time frame as may be fixed by this Court.

For Petitioner : Mr.P.Raja
For Respondents : Mr.T.Arunkumar
Government Advocate

ORDER

This Writ Petition has been filed seeking issuance of Writ of Certiorarified Mandamus to call for the records relating to the proceedings G.O.(D).No.148 Home (POL-VI) Department, dated 29.01.2020, on the file of the first respondent herein and to quash the same and direct the respondents to regularize the services of the petitioner, with all such monetary and other service benefits and continuous service within a time frame as may be fixed by this Court.

2. Heard Mr.P.Raja, learned counsel for the petitioner and Mr.T.Arunkumar, learned Government Advocate appearing for the respondents.



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3. The petitioner along with one Thangaraj, Sub-Inspector, Chelladurai, Head Constable have been charged for various lapses and disciplinary proceedings have been initiated against them. In this regard, a criminal case has also been registered by Suchindram Police and they have been convicted. However, the conviction was reversed in the appeal filed by them. Consequently, they have also got acquitted.

4. Now the submission of the learned counsel for the petitioner is that in the departmental proceedings initiated, all the three were punished, but however, on appeal, the punishment against Thangaraj and Chelladurai was set aside and it is held that the charges against them was also not proved. When such is the case, the petitioner alone has been imposed with the punishment of stoppage of three years increment with cumulative effect. Unfortunately, the petitioner has not preferred any appeal. However, he preferred a revision before the second respondent and the second respondent has modified the punishment from three years stoppage of increment with cumulative effect to one year stoppage of increment with cumulative effect. It is seen that the Government also



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confirmed the same in G.O.(D).No.148 dated 29.01.2020. While modifying the punishment to one year, the second respondent had observed that the petitioner's acquittal in the criminal case is on the benefit of doubt and it is not an honourable acquittal.

5. On perusal of the judgment of the Criminal Court in S.C.No.86 of 2012 dated 29.07.2016 the Criminal Court has appreciated the evidence in detail and recorded reasons for not believing the case of the prosecution. Even though in the result, it is stated in the usual manner that the benefit of doubt is given to the accused, the contents of the judgment would show that the Court did not believe the case of the prosecution itself and hence such order of the Court cannot be considered as acquittal on merits. However, the petitioner ought to have vigilantly filed an appeal before the appropriate authority before filing the revision. Only because of the lapse on that point, the petitioner has got different order from the hands of the second respondent for getting a punishment of stoppage of one year increment with cumulative effect.

6. The learned counsel for the respondent also did not deny the fact



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that against the other two persons also the disciplinary action was taken and the criminal case pending were exonerated against all the charges and the order of the Enquiry Officer has been set aside by the appellate authority. In such case, the petitioner's equal right should not be affected. In view of the above stated reasons, the impugned order is quashed with all consequential and attendant benefits.

7. In the result, this Writ Petition is allowed and G.O.(D).No.148 Home (POL-VI) Department, dated 29.01.2020, on the file of the first respondent is quashed and the respondents are directed to grant all consequential and attendant benefits to the petitioner. No costs.

19.10.2023

Index : Yes
Internet : Yes/No
gsk

R.N.MANJULA, J.



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WEB COPY

To

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