



W.P.No.6604 of 2019

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.06.2023

CORAM :

THE HONOURABLE MR.JUSTICE P.B.BALAJI

W.P.No.6604 of 2019

T.Rathinam

... Petitioner

Vs.

**1.The Director General of Police,
Mylapore, Chennai - 600 004.**

**2.The Commissioner of Police,
Greater Chennai Police,
Vepery, Chennai - 600 007.**

**3.The Deputy Commissioner of Police,
Adyar District,
Adyar, Chennai - 600 020.**

**4.The Assistant Commissioner of Police,
Madipakkam Sub-Division,
Chennai - 600 091.**

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records in connection with the Charge Memo in P.R.No.15/03 u/r. 3(b) passed by the fourth respondent herein and the order of punishment in P.R.No.15/2003; u/r 3(b) of TNPSS (D & A) Rules, 1955 dated 03.10.2016 passed by the third respondent herein and the



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Rejection Order on appeal in P.R.No.15/2003, Rc.No.PRV(1)/CPO/334/121687/2017 dated 18.09.2017 passed by the second respondent herein and the Rejection Order on Appeal in Rc.No.196796/AP.3(2)/2017 dated 13.06.2018 passed by the first respondent herein and quash the same consequently direct the respondents to extend all consequential benefits to the petitioner including increment from 2002 to 2018.

For Petitioner : Mr.P.Ganesan
for Mr.R.Sampathkumar
For Respondents : Mr.M.Shahjahan
Special Government Pleader

ORDER

The petitioner has filed the present writ petition seeking issuance of a Writ of Certiorarified Mandamus to call for the records in connection with the Charge Memo in P.R.No.15/03 u/r. 3(b) passed by the fourth respondent herein and the order of punishment in P.R.No.15/2003; u/r 3(b) of TNPSS (D & A) Rules, 1955 dated 03.10.2016 passed by the third respondent herein and the Rejection Order on appeal in P.R.No.15/2003, Rc.No.PRV(1)/CPO/334/121687/2017 dated 18.09.2017 passed by the second respondent herein and the Rejection Order on Appeal in Rc.No.196796/AP.3(2)/2017 dated 13.06.2018 passed by the first respondent herein and quash the same and consequently direct the respondents to extend all consequential benefits to the petitioner including increment from 2002 to 2018.



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2. The petitioner joined in the Police Department on 01.05.1988 as Grade-II Police Constable and he was posted at Saint Thomas Mount (Armed Reserve). While he was in service as Grade-I, Police Constable at Adambakkam Police Station, he was residing in the Police Quarters at Parangimalai, Chennai along with his family.

3. On 04.11.2002 at about 6.00 p.m., there was a wordy quarrel between his wife and one Selvaraj (Head Constable), who was also residing in the same Police Quarters and the said Selvaraj lodged a police complaint against the petitioner and his family and based on the complaint, a case in Crime No.641 of 2002 has been registered under Sections 341 and 324 of IPC and the case has been taken on file before the learned Judicial Magistrate, Alandur in C.C.No.656 of 2009.

4. On the same set of facts, a Charge Memo was issued to the petitioner in PR.No.15 of 2003 dated 28.01.2013. The said Charge Memo contained a single charge namely, "the conduct of the petitioner was amounting to grave misconduct and unbecoming of a police man".



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5. The petitioner was subsequently acquitted in the criminal case on 16.06.2014. Insofar as the Departmental Disciplinary Proceedings, initially, the petitioner was suspended from service as early as on 06.11.2002 and subsequently, reinstated into service after 15 months vide order dated 21.02.2003.

6. On 03.10.2016, the third respondent/Deputy Commissioner of Police imposed punishment namely, "postponement of increment for two years, which shall operate to postpone his future increment".

7. The grievance of the petitioner is that his explanation dated 07.09.2016 was not considered. However, his appeal to the second respondent and further appeal to the first respondent also came to be dismissed.

8. The petitioner places reliance of G.O.Ms.No.124, Personnel and Administrative Reforms (Personnel.N) Department dated 22.02.1983, wherein, it is stated that when a criminal case is filed solely on a criminal offence committed by the Government Servant which is in no way connected with the



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discharge of his official duties, there is no need to pursue departmental action, except placing the Government Servant under suspension as contemplated under Tamil Nadu Civil Services (Classification, Control and Appeal) Rules.

9. The petitioner states that citing the punishment, he has been deprived of his promotion and increments.

10. Though the petitioner has filed the present writ petition challenging the Punishment Order dated 03.10.2016, which was subsequently confirmed by the higher officials, it is now seen that the period of punishment has already been suffered by the petitioner. However, his only grievance is that, he has not been considered for promotion and other consequential incentives.

11. The learned counsel for the petitioner would rely on Part-A (II) of Schedule-XI [See Section 7(1)] of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016. In fact, rules 12 and 13 of Part-A (II) are of relevance and are extracted hereunder:-

"(12) A Member of Service whose name has not been included in the approved list for a punishment shall not be overlooked in the subsequent years' list for the same punishment or



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stoppage of increment has also ended in October 2018. The petitioner ought to have been considered for promotion atleast after 2018 and the petitioner therefore requests this Court to direct the respondents to consider the petitioner's promotion for the appropriate panel year i.e., for the year 2017-2018 as by then, he has completed punishment also.

15. Though the third respondent has filed a counter affidavit, it is in respect of the power of the Department to proceed with the enquiry dehors any order of acquittal from the Criminal Court.

16. However, taking into the subsequent developments in the matter and also the fact that the petitioner has already undergone two years punishment and subsequently, he would be entitled to promotion and all consequential increments and benefits, this Court is inclined to partly allow the writ petition by directing the respondents to consider the petitioner's promotion from the panel year 2017-2018 together with all consequential benefits and increments that would be payable to the petitioner. This exercise shall be completed by the respondents, within a period of four weeks from the date of receipt of a copy of this order.



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17. This Writ Petition is partly allowed with the above directions. No costs.

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Index : Yes / No

Internet : Yes / No

Speaking Order/Non-Speaking Order

Neutral Citation : Yes / No

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P.B.BALAJI, J.

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