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W.P.No.10113 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.11.2023

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THE HONOURABLE MS. JUSTICE R.N.MANJULA

W.P.No.10113 of 2021 and
W.M.P.No.10738 of 2021

G.Rajamani

... Petitioner

Vs.

1.The Government of Tamil Nadu,
Rep by its Secretary to Government,
Home (SC) Department,
Fort St. George,
Chennai 600 009.

2.The Director General of Police,
O/o.Director General of Police,
601, Dr.Radhakrishnan Salai,
Mylapore, Chennai 600 004.

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

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the records pertaining to G.O.(2D) No.271, Home (SC) Department dated 01.08.2014 and the consequential order in G.O.(2D) No.165, Home (SC) Department dated 22.05.2018 of the first respondent herein which was served on 05.10.2020 to the petitioner and quash the same.

For Petitioner : Mr.K.Sathiyavel

For Respondents : Mr.G.Nanmaran,
Special Government Pleader



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ORDER

This Writ Petition has been filed seeking to issue a Writ of Certiorari to call for the records pertaining to G.O.(2D) No.271, Home (SC) Department dated 01.08.2014 and the consequential order in G.O.(2D) No.165, Home (SC) Department dated 22.05.2018 of the first respondent herein which was served on 05.10.2020 to the petitioner and quash the same.

2. Heard Mr.K.Sathiyavel, learned counsel for the petitioner and Mr.G.Nanmaran, learned Special Government Pleader for the respondents.

3. It is submitted by the learned counsel for the petitioner that while the petitioner was working as a Head Constable at S.P.Pattinam Police Station, he was placed under suspension on 23.09.2011, a week before his retirement, by citing that a departmental action was pending against him. The petitioner had filed a Writ Petition in W.P.No.12957 of 2013, seeking a direction to conclude the disciplinary proceedings



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against him and the same was disposed of on 30.04.2013, with a direction to complete the disciplinary proceedings within a period of four weeks.

4. The first respondent passed the impugned G.O.(2D) No.165, Home (SC) Department, dated 22.05.2018 by imposing the punishment of reduction in pension, based on the G.O.(2D).No.271, Home (SC) Department dated 01.08.2014. Since the petitioner is at the verge of retirement, he did not challenge the G.O.(2D).No.271, dated 01.08.2014. However, in the said G.O.(2D).No.165, dated 22.05.2018, the first respondent had also issued orders to reduce the pension of the petitioner. Hence, the petitioner has filed the present Writ Petition.

5. On perusal of the order of punishment made in G.O.(2D).No.271, Home (SC) Department dated 01.08.2014, the Government has given the following punishments in paragraph No.6 as follows:

"6. The Government after careful and independent examination of the charge, defence statement of the delinquent officer, findings of the Inquiry Officer and



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further representation of the delinquent officer on the findings of the Inquiry Officer, along with the connected records, have decided to accept the proved findings of the Inquiry Officer in respect of the charge frame against Thiru G.Rajamani, formerly Head Constable, S.P.Pattinam Police Station and now Sub-Inspector of Police (under suspension and not allowed to retire on 30.09.2011 on superannuation) and to impose a punishment of "compulsory retirement" on the delinquent officer. Accordingly, the Government order that a punishment of "compulsory retirement" be imposed on Thiru G.Rajamani, Sub-Inspector of Police (under suspension and not allowed to retire on 30.09.2011 on superannuation) for the proven charge dealt with in punishment Roll No.21/2011 under Rule 3(b) of the Tamil Nadu Police Subordinate Services (Discipline and Appeal) Rules, 1955."

6. In the said order there is no mention about the imposition of any further penalty in the form of reduction of pension or gratuity as contemplated under Rule 39(1) of Tamil Nadu Pension Rules, 1978. Had there been an order to that effect in the order of punishment itself, the petitioner could have got an opportunity to make his submissions



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regarding the punishment. Without giving any notice, all of a sudden, that too, after allowing the petitioner to get the full pension, the impugned order has been passed on 22.05.2018 and in which, 1/3 pension payable to the petitioner was reduced with retrospective effect from 01.08.2014, on which date the order of punishment was passed. Since the impugned order is an after thought and it has been passed arbitrarily and beyond authority, without giving an opportunity to the petitioner by way of giving a prior notice, the said order has to be set aside.

7. In the result, this Writ Petition is allowed and the order passed in in G.O.(2D) No.165, Home (SC) Department dated 22.05.2018 of the first respondent is quashed. No costs. Consequently, connected miscellaneous petition is closed.

10.11.2023

Index : Yes

Internet : Yes/No

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R.N.MANJULA, J.

gsk

To

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The Government of Tamil Nadu,
Home (SC) Department,
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2.The Director General of Police,
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