



WEB COPY



W.P.No.17734 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.06.2023

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.17734 of 2022

K.Paramasivam

...Petitioner

Vs

The Superintendent of Police,
Office of the District Superintendent of Police,
Nagapattinam and District

...Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondent to revoke the dismissal order issued on 19.03.2009 and issue the order of reinstatement to the petitioner as issued to another police constable namely Rajasekaran (Police No.497) as per the petitioner's representation dated 24.04.2023.

For Petitioner : Mr.M.Thamizhavel

For Respondent : Mr.P.Gurunathan
AGP

ORDER

With the consent of both the parties, the main writ petition is taken up for final disposal.

2. The petitioner herein while serving as Police Constable of



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Armed Reserve, Nagapattinam, who was dealt with in P.R.No.44/2008 u/r 3(b) of Tamil Nadu Police Subordinate Service (Discipline and Appeal) Rules 1955 was dismissed from service on 19.03.2009. The criminal case in which he was involved, ended up in acquittal through judgment in C.C.No.193/2009 dated 13.08.2010. Along with the petitioner, one Rajasekaran, who was also acquitted in the criminal case, has now been reinstated back into service. Citing the case of Rajasekaran and raising ground on discrimination, the petitioner has filed the present writ petition.

3. The case of Rajasekaran cannot be strictly equated to that of the petitioner. In Rajasekaran's case, it is seen that his original punishment of dismissal from service was modified into that of compulsory retirement by the Director General of Police vide Proceedings dated 10.02.2011. Thereafter, on a memorial petition given by him, the punishment was further modified into postponement of increment for two years with cumulative effect by the Additional Chief Secretary to Government through order dated 28.02.2022, whereas, in the case of the petitioner herein, the original punishment was never modified



by the Director General of Police.

4. The learned Additional Government Pleader, on written instructions, submits that the petitioner's request for reinstatement has already been rejected by the Director General of Police on 12.06.2012. As such, the disciplinary authority as well as the appellate authority have become functus officio. He further submits that it is only the Government who would be empowered to consider the petitioner's claim.

5. Since the Director General of Police has already rejected the petitioner's request, the Government would be the appropriate authority to consider the petitioner's request for reinstatement. In this background, the petitioner is granted liberty to make appropriate representation along with the copy of this order to the Secretary, Home Department, Government of Tamil Nadu, seeking for reinstatement and on receipt of such representation, the concerned Secretary shall consider it on its own merits and pass appropriate orders in accordance with law, within a period of three months from the date of receipt of a copy of this order.

M.S.RAMESH,J.,



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6. With the above direction, the Writ Petition stands disposed of.

No costs.

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Index: Yes/No

Speaking order/Non-speaking order

sr

To

The Superintendent of Police,
Office of the District Superintendent of Police,
Nagapattinam and District

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