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Writ Appeal No.509 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:21.08.2023

CORAM

**THE HONOURABLE MR. JUSTICE R.SURESH KUMAR
AND
THE HONOURABLE MR. JUSTICE K.KUMARESH BABU**

**Writ Appeal No.509 of 2019
and C.M.P.No.4474 of 2019**

1. The Office of the Group Commandant,
Central Industrial Security Force,
Rep. By its Group Commandant,
Ministry of Home Affairs, Block 'D',
Rajaji Bhawan, Besant Nagar,
Chennai – 600 090.
 2. The Office of the Deputy Inspector General,
Central Industrial Security Force,
Rep. By its Deputy Inspector General (SZ),
Ministry of Home Affairs, Block 'D',
Rajaji Bhawan, Besant Nagar,
Chennai – 600 090.
 3. The Office of the Inspector General,
Central Industrial Security Force,
Rep.by its Inspector General,
Ministry of Home Affairs,
South Sector Head Quarters,
Chennai Port Trust Campus,
War Memorial, Chennai – 600 009.
- ... Appellants

Vs

**Gurusiddappa,
S/o.Late. Shanthappa**

.. Respondent



Writ Appeal No.509 of 2019

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent Act, to set aside the order passed by this Court in W.P.No.20526 of 2012 dated 12.03.2018.

For Appellants : Mr.Srinivasa Murthy

For Respondent : Mr.M.Suresh Kumar

JUDGMENT

(Judgment of the Court was delivered by R.SURESH KUMAR,J.)

This appeal had been directed against the order passed by the Writ Court dated 12.03.2018 made in W.P.No.20526 of 2012.

2. The respondent was working in the Force at the appellant's Office, against whom a disciplinary proceedings was initiated and ultimately a punishment of reduction in payment in two stages with cumulative effect was inflicted, because of such punishment to the respondent his promotional prospects was affected, therefore, he had approached the Writ Court and filed writ petition in W.P.No.20526 of 2012. The said writ petition was allowed by the Writ Court by an order dated 12.03.2018, whereby the punishment awarded against the



respondent by the appellant Department was set aside, thereby direction was given to promote him to the next post i.e., Sub-Inspector of Police with effect from the date of his juniors were considered for such promotion with all attendant and service benefits.

3. Aggrieved over the same, this appeal has been directed, where an interim order of stay has been granted during the pendency of the appeal.

4. Unmindful of the same, the promotion has already been given to the respondent and in the promoted post, he was working till he reaches the superannuation and ultimately, on superannuation he retired from service on 28.02.2022 and whatever the retiral benefits, for which he is entitled to otherwise has already been calculated and had been paid to the respondent also.

5. When this is the factual matrix, which development had been taken place during the pendency of this appeal for all these years, after hearing the learned counsel appearing for both sides, we feel that insofar as the setting aside of the punishment and a consequential direction given



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to the appellant Department to give him promotion is concerned, we do not want to interfere with the same as for such direction, the reasons given by the learned Judge is to be accepted.

6. However, in respect of certain aspects, since still some gray areas are there, where a rehearing is required and in order to avoid such conflicts, as the respondent already retired from service peacefully and whatever the retiral benefits, for which he is entitled to, he has already received including the pension, which he continues to be received. Insofar as the differential pay, that has to be paid to the respondent, if the present appeal is allowed, therefore, in order to avoid the same, the learned counsel appearing for the appellant would submit that, this appeal to that extent can be considered and decided.

7. Even to that extent, we feel that the said amount by virtue of setting aside the punishment i.e., some enhancement towards his pay, if the respondent gives up, there will be a quietus to the issue, as, in order to purchase the peace the respondent also can adopt the said way, for which, there could be no serious objection from the respondent.

Therefore, taking note of the totality of the situation, we feel that this



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writ appeal can be disposed of with the following orders:

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◆ That the impugned order passed by the learned Judge is to be sustained, therefore, it is sustained. But, at the same time, insofar as the differential pay, if any, pursuant to the setting aside the punishment already awarded against the respondent is concerned, such a revised or enhanced pay i.e., difference of pay by virtue of enhancement need not be paid to the respondent as that issue has not been gone into on merits in this appeal, in view of the peculiar facts and circumstances of the case, where the respondent has already superannuated and retired from service peacefully on 28.02.2022.

With these observations, this writ appeal is disposed of . No costs.

Connected miscellaneous petition is closed.

(R.S.K.,J.)

(K.B., J.)

21.08.2023

Index: Yes/No

Speaking Order/Non Speaking Order

Neutral Citation: Yes/No

mp



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and
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mp

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