



W.P.No.30528 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.01.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.30528 of 2018
and
W.M.P.No.35607 of 2018

K.Jeyalakshmi

...Petitioner

-Vs-

1.The State of Tamil Nadu,
Rep. by its Principal Secretary to Govt.,
Home (Police) Department,
Secretariat, Fort St. George,
Chennai - 600 009.

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

3.Inspector General of Police,
Armed Police, Chennai - 600 010.

4.Deputy Inspector General of Police,
Armed Police, Chennai - 600 010.

5.The Commandant,
Tamil Nadu Special Police,
7th Battalion, Pochampalli,
Krishnagiri District.

...Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned proceedings issued by the 5th respondent in Na.Ka.No.E1/PR28/2010, dated 28.09.2010, as confirmed in the orders passed by 2nd respondent in Rc.No.90860/Ap3(1)/2015, dated 13.10.2015 and confirmed with modification of punishment by the order of 1st respondent in G.O.(D) No.332, Home (Pol 9) Department, dated 16.03.2017 and the consequential order issued by 5th respondent in B.O.490/2017 C.No.E1/PR.28/2010, dated 02.11.2017 and to quash the same and consequently directing the respondents to allow the petitioner with service benefits, seniority and consequential promotion by treating the period out of employment as duty period with consequential and other attendant benefits including payment of arrears of salary.

For Petitioner : Mr.S.Nedunchezhiyan

For Respondents : Mr.K.H.Ravikumar,
Government Advocate

ORDER

Heard Mr.S.Nedunchezhiyan, learned counsel for the petitioner and Mr.K.H.Ravikumar, learned Government Advocate appearing for the respondents.



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2. On charges of unauthorized absence, the petitioner herein was originally imposed with a punishment of removal from service on 28.09.2010 by the 5th respondent herein. Thereafter, his mercy petition before the 2nd respondent was also dismissed on 13.10.2015. Subsequently, the 1st respondent herein had passed an order on 16.03.2017 in the appeal preferred by the petitioner and modified the original punishment into one of stoppage of increment for a period of 3 years with cumulative effect, but without back wages. Consequently, his period of absence came to be regulated by the 5th respondent on 02.11.2017, wherein his period of non-employment was treated as leave without pay.

3. The learned counsel for the petitioner submitted that the modified punishment of stoppage of increment without back wages and the subsequent regulation of absence period, would amount to double punishment.

4. I am not in agreement with such a submission. When the modified punishment itself stated that the original order of removal from service be



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modified into stoppage of increment for 3 years with cumulative effect and without back wages, his period of non-employment requires to be treated as leave without pay. However, such period of absence will also be deemed to be as duty period for all other purposes. Thus, when the back wages were denied to the petitioner, while modifying the punishment, regulating the period of unauthorized absence without pay, cannot be found fault with.

5. Since the respondents have stated in their counter affidavit that the petitioner's unauthorized absence has been regulated by following Rule 54 of the Fundamental Rules, the petitioner cannot claim that his service during the unauthorized period was not regulated.

6. Thus, there are no merits in the present writ petition. Accordingly, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

05.01.2023

Index:Yes/No

Internet:Yes/No

Speaking order/Non-speaking order

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To
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M.S.RAMESH,J.

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