



W.P(MD)No.9155 of 2023

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.04.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.9155 of 2023
and
W.M.P(MD)No.8276 of 2023

S.Raja

... Petitioner

Vs

- 1.The Principal Secretary
to the Government,
Home Department,
Secretariat,
Fort St.George,
Chennai.
- 2.The Director General of Police,
Law and Order,
Kamarajar Salai,
Mylapore,
Chennai – 4.
- 3.The Superintendent of Police,
Viruthunagar District,
Viruthunagar.
- 4.The Deputy Inspector General of Police,
Madurai Range,
Madurai.



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5.The Superintendent of Police,
Madurai District,
Madurai.

6.The Inspector of Police,
Karimedu Police Station,
Madurai.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the entire records of the third respondent pertaining to the impugned order PR.No. 49/2015 dated 16.02.2016 and fourth respondent proceedings in C.No. A4/6897/AP-35/2016 dated 08.10.2016 and second respondent in proceedings in Rc.No.036714/AP.II(2)2017 dated 10.10.2017 and quash the same as illegal and direct the fifth respondent to issue the monetary benefits to the petitioner and grant the promotion to the petitioner with effect from 01.03.2019 within the stipulated time period.

For Petitioner : Mr.P.Selvakumar

For Respondents : Mr.G.Suriyananth
Additional Government Pleader

ORDER

Heard the learned counsel on either side.



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2.The petitioner is working as Police Constable Grade I. He was issued with charge memo dated 28.12.2015 alleging that when he escorted a prisoner by name Selvam on 08.06.2015 on account of his negligence the prisoner attempted to smuggle contraband such as 65 grams of Ganja, a mobile phone, a battery, a SIM card and also a charger in his armpit into the prison. This was discovered at the second stage of security check. The petitioner denied the allegation. Enquiry was conducted. Enquiry officer found the charge proved. After serving the enquiry report on the petitioner, his further representation was obtained. Not satisfied with the petitioner's explanation, the disciplinary authority passed an order dated 16.02.2016 agreeing with the finding of the enquiry officer and imposing punishment of stoppage of increment for one year with cumulative effect. Questioning the same, the petitioner filed an appeal before Deputy Superintendent of Police, Madurai range. The appeal was dismissed on 08.10.2016. Questioning the same, the petitioner filed mercy petition before the Director General of Police, Tamil Nadu, Chennai. Vide order dated 10.10.2017 Director General of Police while confirming the finding of guilt modified the punishment in to that of postponement of increment for a period of one year which shall not operate to postpone his future increments from the date of original orders.



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3.The petitioner did not challenge the said order immediately. He kept quiet. When the petitioner was denied promotion he filed W.P(MD)No.7085 of 2020. The writ petition was dismissed on 13.12.2022. It was then the petitioner realized that the imposition of the aforesaid punishment had come in the way of his securing promotion. The petitioner woke up thereafter and filed the present writ petition.

4. The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to set aside the impugned order and grant relief as prayed for.

5.I am not persuaded by the said submissions of the learned counsel. As rightly pointed out by the learned Additional Government Pleader appearing for the respondents, the petitioner cannot take his own sweet time to challenge an adverse order. The cause of action arose in the year 2015 and it culminated in the order dated 10.10.2017 on the file of Director General of Police, Tamil Nadu, Chennai. More than 5 ½ years have elapsed. The explanation given by the writ petitioner for belated challenge is absolutely unacceptable. The stand of the petitioner is that when he realized the consequences of the impugned order, he woke up and thereafter filed the present writ petition. Since the writ



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petition suffers from the vice of laches, it stands dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

20.04.2023

Index : Yes / No

Internet : Yes / No

NCC : Yes / No

MGA

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to the Government,
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