



W.P.(MD)No.14077 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:14.02.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.14077 of 2020

S.Raveendran

... Petitioner

Vs.

1.The Principal Secretary to Government,
Home Department,
Secretariat,
Fort St. George,
Chennai.

2.The Director General of Police,
Chennai – 600 004.

3.The Superintendent of Police,
Railway, Trichy.

... Respondents

Prayer:Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned proceedings bearing Na.Ka.No.D2/LR764/2015 dated 05.05.2015 on the file of the third respondent and quash the same and consequently direct the respondents to treat the suspension period between 28.09.1996 to 21.11.2012 as duty period and to grant all

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consequential service and monetary benefits along with interest to the petitioner with revision of pension payable to the petitioner.

For Petitioner : Mr.K.Gnanagurunathan
For Respondents : Mr.G.V.Vairam Santhosh,
Additional Government Pleader

ORDER

This writ petition has been filed to quash the impugned proceedings of the third respondent bearing Na.Ka.No.D2/LR764/2015, dated 05.05.2015 and consequently, to direct the respondents to treat the suspension period between 28.09.1996 to 21.11.2012 as duty period and to grant all consequential service and monetary benefits along with interest to the petitioner with revision of pension payable to the petitioner.

2. The case of the petitioner is that originally the petitioner was appointed as Grade II Police Constable on 14.12.1981 and thereafter, he was promoted as Grade I Police Constable on 07.10.1985. While he was working under the third respondent as Police Constable in Trichy Railway Station, a case in Crime No.3 of 1996 was registered against the



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petitioner and others by the Vigilance and Anti Corruption Department, for the offence under Section 7 of Prevention of Corruption Act, 1988 on the allegation of demanding and receiving illegal gratification. Therefore, he was placed under suspension with effect from 30.08.1996. Subsequently, a charge memo was issued to the petitioner on 23.11.1998 framing four charges. The petitioner submitted his explanation on 30.08.2012 and thereafter, the first respondent issued the impugned G.O.(2D) No.354 dated 22.10.2012 by imposing punishment of reduction in rank for a period of five years. Pursuant to the said order, the fourth respondent issued an order of revocation of suspension vide order, dated 19.11.2012 and the petitioner was directed to report duty. Thereafter, against the said impugned order, the petitioner filed an appeal to the Government. The first respondent vide his proceedings, dated 17.02.2016, had rejected the petitioner's appeal and confirmed the punishment. Subsequently, after the punishment period, the petitioner was promoted as Grade I Police Constable in the year 2018 and subsequently, on attaining the age of superannuation, he retired from service on 22.10.2012. As the original order, dated 22.10.2012 and the



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subsequent order passed in the appeal, dated 17.02.2016, are against the Rules, the petitioner filed W.P(MD)No.5705 of 2020 and the same is pending. While the matter stood thus, the second respondent issued a memorandum, dated 16.03.2015, to the third respondent directing to regularize the petitioner's suspension period from 28.09.1998 to 21.11.2012 as per FR 54 B-1(1)(5) & 7. Subsequently, vide the impugned proceedings dated 05.05.2015, the third respondent had regularized the petitioner's suspension period as eligible leave for 100 days, 180 days as half pay leave and the remaining 15 years 14 months and 16 days was regularized as leave without pay and therefore, nearly 16 years of service of the petitioner's service had been wiped out. Hence, challenging the same, the petitioner has filed this writ petition.

3. The learned counsel appearing for the petitioner would submit that the disciplinary authority ought to have passed order by invoking FR 54-B-1(3). However, without doing so, the third respondent had regularized the suspension period of the petitioner as leave without pay



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depriving the right of the petitioner to calculate the pensionable service of fifteen years, which is not sustainable.

4. In support of his contention, the learned counsel appearing for the petitioner relies upon an unreported decision of this Court, dated 09.01.2014 made in W.P.Nos.5670 and 27179 of 2012, wherein in similar circumstances, this Court allowed the writ petitions and against which, writ appeals were filed in W.A.Nos.516 and 517 of 2015 and the said writ appeals were dismissed vide judgment, dated 12.04.2018 and the same was confirmed by the Hon'ble Apex Court in S.L.P.No.32911 of 2019, dated 09.01.2014 and hence, prays for allowing of this writ petition.

5. Per contra, the learned Additional Government Pleader appearing for the respondents would submit that the petitioner was appointed as Grade II Police Constable on 14.02.1981 and thereafter, he was promoted as Grade I Police Constable on 07.10.1995. On the allegation of receiving illegal gratification, the petitioner was placed under suspension with effect from 3.08.1996. Subsequently, in respect



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of the disciplinary proceedings case No.1 of 1998, the third respondent conducted enquiry and submitted a report on 30.10.2002. Totally 21 witnesses were examined and 27 exhibits were marked apart from seven material objects. Phenolphthalein test result also proved positive. Subsequently, after conclusion of the disciplinary proceedings, the first respondent imposed punishment of reduction of rank for a period of five years. The appeal filed by the petitioner was also dismissed by the Government. In the meanwhile, the petitioner rejoined duty in the reduced rank of Grade II Police Constable on 23.11.2012 and subsequent to the punishment period, the petitioner got promotion and on attaining the age of superannuation, he retired from service on 31.05.2019. The petitioner being a public servant flouted all the Rules and Regulations and damaged the reputation of the Police Department and therefore, the punishment is imposed. With regard to regularization of suspension period, the respondents had correctly invoked FR 54(B)(1)(5) and (7) and thereby, treated the period as non duty period and therefore, the impugned order does not warrant interference at the hands of this Court.



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6. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

7. Admittedly, the petitioner entered into service in the year 1981 as Grade II Police Constable. Subsequently, while he was working as Grade I Police Constable, he was suspended from service on the allegation of receiving illegal gratification. In this regard, a criminal case was also registered for the offence under Section 7 of the Prevention of Corruption Act, 1988. After completion of disciplinary proceedings, a punishment of reduction in rank for a period of five years was imposed. Thereafter, the petitioner rejoined duty and after punishment period, the petitioner was promoted as Grade I Police Constable and got retired from service in the year 2019. While being so, vide the impugned order dated 05.05.2015, the third respondent regularized the suspension period as non duty period. However, after a lapse of five years from the date of passing the impugned order, the petitioner has filed this writ petition challenging the said order, which is not sustainable on the ground of delay and laches.



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8. Further, the petitioner being served in a Disciplinary Force, involved in an offence under Section 7 of the Prevention of Corruption Act, 1988 and hence, he deserves for major punishment of dismissal from service. However, considering the explanation submitted by the petitioner, only a minimum punishment of reduction of rank for a period of five years was imposed. Further, by applying the correct Rule ie., FR 54-B(1) (5) and (7), the third respondent had treated the suspension period as non duty period which is perfectly in order and there is no irregularity or infirmity in the said order and therefore, this writ petition deserves dismissal.

9. In the result, this writ petition is dismissed. No Costs.

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NCC: Yes/No

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M.DHANDAPANI, J.

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