



W.P.(MD)No.16257 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.03.2023

CORAM

THE HONOURABLE MR. JUSTICE G.R.SWAMINATHAN

W.P.(MD).No.16257 of 2020
and
W.M.P.(MD)No.19968 of 2020

A.Paulraj Pandian

... Petitioner

Vs

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

2.The Commissioner of Police,
Madurai City,
Madurai.

3.The Deputy Commissioner of Police (L&O),
Madurai City,
Madurai.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order passed by the 2nd respondent in



W.P.(MD)No.16257 of 2020

Na.Ka.No.D1(3)Tha.Pa.No.147/2014 dated 13.02.2020 and quash the same and consequently direct the respondents to calculation of suspension period converted to be on duty period from 11.07.2014 to 02.02.2015, 12.02.2019 to 06.08.2019, as per the fundamental Rule 54-B-9(a)(b) and G.O.Ms.No. 232(P& AR)(FR IV) Department, dated 07.06.1999.

For Petitioner : Mr.A.Rajaram
For R1 to R3 : Mr.K.Balasubramani
Special Government Pleader

ORDER

Heard the learned counsel on either side.

2.The writ petitioner joined the police department as a Constable in the year 1993. He was working as a Head Constable in the year 2014, when Crime No.50 of 2014 was registered against him on the file of the All Women Police Station, Thirupparankundram, at the instance of one Hemalatha. The registration of the criminal case led to the petitioner's suspension on 11.07.2014. The petitioner's challenge against the suspension order was unsuccessful. Disciplinary action was initiated against the



W.P.(MD)No.16257 of 2020

petitioner. As many as three charges were framed against the petitioner.

The enquiry authority came to the conclusion that all the charges are proved.

The disciplinary authority vide order dated 11.02.2019, imposed the punishment of compulsory retirement of the petitioner. Challenging the

same, the petitioner filed an appeal before the Commissioner of police,

Madurai City. Vide order dated 06.08.2019, the appellate authority

modified the punishment into one of 'Postponement of next increment for a period of two years which shall not operate to postpone his future

increments'. The petitioner was thereafter reinstated into service. The

petitioner applied for regularization of the suspension period and the period during which he was out of employment. The Deputy Commissioner of

Police, Law and Order, Madurai City vide order dated 26.11.2019, settled

the aforesaid periods in the following terms:

"3.To settle his suspension period from 11.07.2014 to 02.02.2015 and the out of employment period spent by him from 12.02.2019 AN to 06.08.2019 FN a Show Cause Notice was issued to him that, why the suspension period and out of employment period spent by him should not be treated as eligible leave including EOL to the extend if necessary, vide this office



W.P.(MD)No.16257 of 2020

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Show cause Notice in C.No.D1(3)/PR.No.147/2014, Dt: 01.11.2019 and he acknowledged the same on 05.11.2019 and he has submitted his explanation on 14.11.2019.

4.In this PR, he was awarded with a specific punishment, hence, the suspension period 11.07.2014 to 02.02.2015 and the out of employment period spent by him for the period from 12.02.2019 AN to 06.08.2019 N is treated as eligible leave including extraordinary leave to the extend, if necessary."

Aggrieved by the same, the petitioner filed appeal. The earlier order was once again reiterated vide memorandum dated 13.02.2020. Challenging the same, the present writ petition has been filed.

3. The learned counsel appearing for the petitioner took me through the averments made in the affidavit filed in support of this petition and called upon this Court to set aside the impugned orders and grant relief as prayed for. The respondents have filed a detailed counter affidavit. The learned Special Government Pleader took me through its contents. The relevant file was also placed for my perusal.

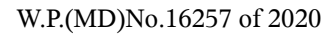


W.P.(MD)No.16257 of 2020

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4. The petitioner has invoked FR 54-B-9 and G.O.No.232, P&AR Department dated 07.06.1999 in support of his contention. This submission of the learned counsel may not have any force. If the petitioner had been suspended from service or visited with any penalty solely on the ground of involvement in a criminal case and the criminal case had ended in favour of the petitioner, then the aforesaid FR as well as the G.O., can be pressed into service. It is true that the criminal case registered against the petitioner was quashed vide order dated 18.11.2019 in CrI.O.P(MD)No.12659 of 2017. However, the petitioner had also been issued with charge memo and pursuant to disciplinary action initiated against him, the punishment of compulsory retirement was originally issued and it was later modified in appeal. Therefore, reliance on the aforesaid FR 54 B-9 is misplaced.

5. The petitioner's request for regularization of suspension period as one on duty for all purposes cannot be accepted. If the charges framed against the petitioner had been held as not proved, then certainly, the aforesaid relief can be given to the petitioner. The appellate authority while modifying the punishment imposed by the disciplinary authority had not



6. This writ petition is partly allowed. No costs. Consequently, rejected miscellaneous petition is closed. No costs.

NCC : Yes/No
Index : Yes/No
Internet : Yes / No

Page 6 of 8



W.P.(MD)No.16257 of 2020

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W.P.(MD)No.16257 of 2020

G.R.SWAMINATHAN, J.

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W.P.(MD)No.16257 of 2020

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