



W.P.(MD) No.5087 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.02.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD) No.5087 of 2018
and WMP(MD) No.5068 of 2018

S.Murugan

... Petitioner

-VS-

1.Government of Tamilnadu
Represented by its Secretary,
Home Department (Police)
Fort St. George, Chennai.

2.Director General of Police,
Chennai 600 004.

... Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records relating to the proceedings of the first respondent in respect of the punishment imposed to the petitioner in PR.45/2000 made in G.O.No.299 Home (Police-2) Department dated 05.04.2002 confirmed in Review Petition in G.ONo.227 Home (Police-2) Department dated 27.06.2003 and further confirmed in G.O.(D) No.1294 Home (Polive-IV) Department dated 20.10.2017 and quash the same and consequently directing the respondents



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to grant all the consequential monetary and service benefits such as promotion from the date when it was due to the petitioner and to restore his pay so as to enable him to receive the enhanced pensionary benefits including arrears within the period that may be stipulated by this Court.

For Petitioner : Mr.V.Kannan

For Respondents : Mr.G.V.Vairam Santhosh
Addl. Government Pleader

ORDER

Challenging the impugned order of the first respondent in respect of the punishment imposed to the petitioner in PR.45/2000 made in G.O.No. 299 Home (Police-2) Department dated 05.04.2002 confirmed in Review Petition in G.ONo.227 Home (Police-2) Department dated 27.06.2003 and further confirmed in G.O.(D) No.1294 Home (Police-IV) Department dated 20.10.2017 and for a direction to the respondents to grant all the consequential monetary and service benefits such as promotion from the date when it was due to the petitioner and to restore his pay so as to enable him to receive the enhanced pensionary benefits including arrears, this writ petition has been filed.



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2. The case of the petitioner is that he was directly appointed to the post of Sub Inspector of Police on 02.04.1979 and subsequently promoted as Inspector of Police on 15.12.1993 and completed probation on 26.11.1997. While he was working as Inspector of Police, a charge memo was issued to him under rule 3(b) of the Tamil Nadu Police Subordinate Services (Discipline and Appeal) Rules. Subsequently, on contemplation of disciplinary proceedings, an enquiry officer was appointed and on completion of enquiry, he was awarded with a punishment of postponement of increment for one year with cumulative effect. In the meanwhile, pursuant to a case registered under Prevention of Corruption Act, the petitioner was arrested and dismissed from service pursuant to the conviction rendered in C.C.No.20/1999 on 19.12.2002. On appeal, this Court allowed the criminal appeal on 30.10.2007 and subsequently, the petitioner was reinstated into service from 03.12.2007. On rejoining into service, the petitioner made a representation to the 2nd respondent to include him in the panel for promotion to the post of Deputy Superintendent of Police and he was posted in Deevatipatti Police Station, on 05.01.2008. On 20.03.2008, the petitioner made a request to the respondents to treat the



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suspension period and non employment as duty period. Pursuant to the said request, the 2nd respondent ordered to treat the suspension period ie., from 29.11.1997 to 18.12.1998 and out of employment period from 31.03.2003 to 19.12.2007 as duty period. Subsequently in 2004-2005 panel, since the currency of punishment subsists, he was not included in the said panel. Subsequently he was promoted as Deputy Superintendent of Police on 18.07.2009 and was allowed to retire on 28.02.2010.

3. It is further averred in the affidavit that the petitioner has made repeated representations to consider his case for placing him above his immediate junior in the list approved and for cancellation of his punishment imposed in PR No.45/2000 and for revision of seniority. Pursuant to the same, the 2nd respondent stated that as per the clarification sought for by the Government, the Superintendent of Police was directed to submit his remarks and after receiving the same, it will be sent to the Government. Upon such receipt of remarks, the present impugned order has been passed thereby confirming the punishment imposed on the petitioner for postponement of increment for one year with cumulative effect. Therefore,



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challenging the same, the petitioner is before this Court.

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4. The learned counsel for the petitioner would submit that the charges against the petitioner are flimsy, for which the punishment imposed is postponement of increment for one year with cumulative effect and the same is purely disproportionate to the charges framed and hence, he prays for allowing the writ petition.

5. The learned Additional Government Pleader would submit that for the charges framed, ie., failure to submit daily diaries for the period from 23.11.1997 to 28.11.1997 and for not enquiring the petition given by one Annapoorani on 04.11.1997, disciplinary proceedings was initiated and a punishment of postponement of increment for one year was imposed. It is further contended that on consideration of the explanation submitted, the enquiry officer has drawn a proven minute and accordingly, the punishment was imposed as stated supra. Subsequently the petitioner was arrested pursuant to a case registered by the Vigilance and Anti Corruption Department and the petitioner was convicted by the special Court and on



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appeal, the petitioner was acquitted by this Court. Thereafter, at his request, he was reinstated and was again promoted to the post of Deputy Superintendent of Police. For all these reasons, it is submitted that the punishment is not stated to be illegal and it is for the proven minute and hence, no interference is warranted to the impugned rejection order.

6. This Court gave its anxious consideration to the rival submissions and perused the materials available on record.

7. The facts with regard to the petitioner's appointment as Sub Inspector of Police, his promotion as Inspector of Police and the charges framed are not disputed. However, it is the grievance of the petitioner that for the charges, which are found to be flimsy, the punishment imposed is disproportionate. It is also not equally disputed that the review petition filed by the petitioner was rejected vide G.O.(2D) No.227 dated 27.06.2003 and confirmed by order impugned dated 20.10.2017. Admittedly, the petitioner retired from service on 28.02.2010. Immediately after retirement, the petitioner made representations on 06.04.2015 and 03.08.2016 for reconsideration of the earlier punishment imposed in PR No.45/2000 on the



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ground that if the punishment is quashed, he will get notional promotion and monetary benefits. However, the fact remains that the earlier punishment imposed by the disciplinary authority, confirmed by the appellate authority was not challenged at the relevant point of time. Only after retirement, the petitioner made repeated representations to the Government to reconsider his earlier punishment imposed is highly misconceived and there is no provision for preferring an appeal before the Government at a later point of time, unless the same is challenged before the Court of law. It is also pertinent to note that the punishment imposed is not disproportionate to the charges framed and hence, on this ground also, no interference is warranted.

8. For these reasons, the writ petition fails and the same is dismissed. No costs. consequently connected Miscellaneous Petition is closed.

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NCC : Yes/No

Index : Yes/No

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- To
- 1.The Secretary,
Home Department (Police)
Fort St. George, Chennai.
 - 2.Director General of Police,
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M.DHANDAPANI, J.

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