



W.P.(MD).No.13050 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.03.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.13050 of 2018

and

W.M.P.(MD).Nos.11913 of 2018 and 7866 of 2019

E.Richard Joseph

... Petitioner

Vs.

1.The Director General of Police,
Dr.Radhakrishnan Salai,
Mylapore,
Chennai -4.

2.The Superintendent of Police,
District Police Office,
Nagercoil,
Kanyakumari District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of of Certiorarified Mandamus, to call for the records pertaining to the order of the 2nd respondent passed in his C.No.L1/09054/2018 dated 22.02.2018 and quash the same as arbitrary and illegal and consequently direct the respondents to treat the suspension period from 13.07.2007 A.N to 26.12.2007 as duty and also



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direct the respondents to promote the petitioner as Special Sub Inspector of Police with effect from 21.08.2011.

For Petitioner : Mr.K.Baalasundharam

For Respondents : Mr.S.P.Maharajan

Special Government Pleader

ORDER

This writ petition has been filed challenging the impugned order passed by the 2nd respondent dated 22.02.2018 and to quash the same and consequently direct the respondents to treat the suspension period from 13.07.2007 A.N to 26.12.2007 as duty and also direct the respondents to promote the petitioner as Special Sub Inspector of Police with effect from 21.08.2011.

2. The learned counsel appearing for the petitioner would submit that without interfering with the impugned order, liberty may be granted to the petitioner to make a fresh representation for granting promotion after the currency of punishment is over.



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3. The facts in the present case are not in dispute. Admittedly, the petitioner was involved in a criminal case and he was placed under suspension on 13.07.2007 under Rule 3(e) 1(i) and 3(e) 1 (ii) of the Tamil Nadu Police Subordinate Service (Discipline and Appeal) Rules, 1955. Subsequently, the criminal case registered against him in Crime No.356 of 2007 was ended in acquittal by the Judicial Magistrate Court No.I, Kuzhithurai on 19.06.2015. However, in the departmental disciplinary action taken against him in P.R.No.105/2007, the delinquencies committed by him were proved and he was imposed with the punishment of reduction in rank as Grade - I P.C. for a period of two years, vide order dated 08.08.2009. Subsequently, the period of suspension was settled as eligible leave including extraordinary leave as per F.R. 54(B) and G.O.(Ms.).No.277 P and AR (Per.N) Department dated 04.05.1988. Thereafter, the petitioner has made a representation to the second respondent on 19.02.2018, requesting to treat the suspension period as a duty period and grant further promotion. However, the same was rejected by the impugned order dated 22.02.2018. Challenging the same, the present writ petition has been filed.



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4. Since during the currency of punishment, promotion was not given to the petitioner. Further, as per FR 54(B), the leave period was regularised, based on the punishment imposed against him. The petitioner did not challenge the punishment order or the earlier regularisation. Without challenging the same, the petitioner has filed the present writ petition. Hence, the prayer sought for by the petitioner cannot be granted. However, the respondents are directed to consider the petitioner's representation for promotion, after the currency of punishment is over.

5. With the above direction, this Writ Petition is disposed of. No costs. Consequently, the connected Miscellaneous Petitions are closed.

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To

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