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W.P.(MD)No.5704 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.04.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.5704 of 2016

and

W.M.P.(MD)No.5138 of 2016

K.Prem Chandran

... Petitioner

vs.

1.The Director General of Police,
Office of the Director General of Police,
Mylapore, Chennai-4.

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

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records pertaining to the order made in Na.Ka.No.T3/53945/2012, dated 01.03.2016, issued by the 2nd respondent and to quash the same.

For Petitioner : Mr.A.Rajaram

For Respondents : Mr.S.R.A.Ramachandran

Additional Government Pleader



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W.P.(MD)No.5704 of 2016

ORDER

This writ petition is filed for writ of Certiorari, to quash the impugned order, dated 01.03.2016. The impugned order is passed for imposing penalty for over staying in the quarters.

2. The petitioner was recruited as Grade II Police Constable on 25.05.1988 and he was promoted to various posts. The petitioner was transferred from Madurai city to Tirunelveli district. Even after transfer to Tirunelveli, the petitioner did not vacate the quarters. The contention of the petitioner is that he submitted request to retain the quarters, since the petitioner's family is living in the quarters and his children are studying in the Schools at Madurai. But the respondents have imposed penalty for over staying in the quarters through proceedings, dated 22.12.2012. Immediately, the petitioner had submitted a representation, dated 15.02.2013 to the 2nd respondent.



WEB COPY



W.P.(MD)No.5704 of 2016

3. The 2nd respondent has passed the impugned order, dated 01.03.2016, wherein the 2nd respondent has imposed a penalty with interest for the period from 24.07.2011 onwards and the said calculation is extracted here under:

சார்பு ஆய்வாளர் திரு. K. ப்ரேமசுந்தரன் பெற்ற அடிப்படை ஊதியம்	ரூ. 13,250/-
தர ஊதியம்	ரூ. 4,800/-
வீட்டு வாடகைப்படி	ரூ. 1,640/-
24.07.2011 முதல் 31.07.2011 வரை 08 நாட்களுக்கு 3மடங்கு தண்டவாடகை - 08/31நாட்கள் x ரூ.1,640/- x 3மடங்கு =	ரூ. 1,270/-
01.08.2011 முதல் 31.12.2014 வரை 41 மாதங்களுக்கு 3மடங்கு தண்டவாடகை - 41 மாதம் x ரூ.1,640/- x 3மடங்கு =	ரூ. 2,01,720/-
மொத்தம் =	ரூ. 2,02,990/-
(இவ் இக்குடியிருப்பை 24.08.2015 அன்று காலி செய்துள்ளார்)	

4. The contention of the respondents is that the petitioner has not submitted the alleged representation dated 15.02.2013 and the respondents did not receive the representation from the petitioner. The learned Additional Government Pleader appearing for the respondents submitted that there is no proof for such submission as well. The



W.P.(MD)No.5704 of 2016

WEB COPY

petitioner had produced the copy of the representation, wherein it is stated that due to his children studying in the school and his wife is taking treatment, hence he was not in a position to vacate the same and sought permission to continue in the house.

5. In the impugned order the respondents have stated that the petitioner was imposed penalty from 08.12.2010 to 12.12.2012, however it was found that the petitioner had reported to duty from 08.12.2010 to 18.04.2011 in CS-CID hence the penalty was modified. The petitioner was relieved from Madurai City on 24.07.2011, the petitioner had joined in Tirunelveli District on 01.08.2011, he had served until 01.07.2012 Tirunelveli District. Then the petitioner was transferred and relieved from Tirunelveli District to Madurai District on 02.07.2012 and served in Madurai District from 09.07.2012 to 31.12.2014, hence the respondents have imposed penalty from 24.07.2011 to 31.12.2014. It is seen that the petitioner was serving in Madurai City, thereafter was serving in Madurai



WEB COPY



W.P.(MD)No.5704 of 2016

District in Avaniapuram Police Station, after merging the Avaniapuram Police Station with Madurai City the respondents have not imposed penalty. Since the petitioner is serving in Madurai District, therefore this Court is of the considered opinion when the petitioner was transferred from Thirunelveli District to Madurai District, then the petitioner ought to be eligible for occupying the house. Therefore, this Court is reducing the period to impose the penal rent. The respondents shall impose the penal rent when the petitioner was serving in Tirunelveli from 24.07.2011 to 01.07.2012. When the petitioner was transferred from Tirunelveli to Madurai District then the petitioner is eligible to occupy the said house and the respondents shall not impose penal rent.

6. The further contention of the respondents is that the writ petition is filed belatedly. The earlier order was passed on 22.12.2012, but the petitioner has filed this writ petition in the year 2016. The said contention cannot be accepted because the petitioner has challenged the



WEB COPY



W.P.(MD)No.5704 of 2016

present impugned order, dated 01.03.2016 and therefore, there is no delay.

7. The learned Counsel appearing for the petitioner submitted that the petitioner has deposited Rs.50,000/-. The said amount shall be deducted when the final calculation is carried out. The said exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order. With the above said observation, the writ petition is allowed in above terms. No costs. Consequently, connected miscellaneous petition is closed.

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

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W.P.(MD)No.5704 of 2016

To

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WEB COPY



W.P.(MD)No.5704 of 2016

S.SRIMATHY, J

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