



W.P(MD)No.26106 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.26106 of 2023

S.W.Viju

... Petitioner

Vs.

1. The Director General of Police,
Head of Police Force,
Tamil Nadu,
Chennai.

2.The Commissioner,
TSP IX, Battalion,
Manimuthar,
Tirunelveli District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a writ in the nature of writ of Certiorarified Mandamus to call for records in RC.No.001591/A.P. 3(1)2021 dated 01.07.2022 on the file of the 1st respondent and quash the same as illegal and consequently direct the respondent to grant all service and monetary benefit within time frame to be fixed by this Court.

For Petitioner : Mr.S.Kumar

For Respondents : Mr.T.Villavan Kothai

Additional Government Pleader



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ORDER

The present Writ Petition has been filed by a Grade-II Police Constable challenging the order passed by the 1st respondent, wherein Mercy Petition has been dismissed.

2. According to the learned counsel appearing for the petitioner, on 06.08.2013, the petitioner was imposed with a punishment of postponement of increment with cumulative effect for a period of two years. After imposition of such punishment, he was acquitted by the Criminal Court on 12.03.2021. Thereafter, the petitioner has placed a Mercy Petition before the 1st respondent on 10.12.2021. Under the impugned order dated 01.07.2022, the 1st respondent has rejected the Mercy Petition. Challenging the same, the present Writ Petition has been filed.



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3. According to the learned counsel for the petitioner, the 1st respondent has rejected the Mercy Petition without properly appreciating the fact that the petitioner has been acquitted in the criminal case and though he has mentioned the same in the Mercy Petition, the said fact has not been properly considered.

4. Per contra, the learned Additional Government Pleader appearing for the respondents submitted that acquittal in the criminal case is not bar for proceeding in the departmental proceedings.

5. Considering the fact that acquittal in the criminal case has not been considered by the first respondent, the order of the first respondent is hereby set aside. The matter is remanded back to the file of the 1st respondent. The 1st respondent is directed to consider the petition filed by the petitioner in the light of the order of acquittal dated 12.03.2021 passed in S.T.C.No.90 of 2013 on the file of the Judicial Magistrate No.1, Kulithurai and pass orders afresh on



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merits and in accordance with law after giving due opportunity to the petitioner. The said exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of this order.

6. With the above directions, this Writ Petition is allowed. No costs.

11.12.2023

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

To

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Chennai.

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R.VIJAYAKUMAR, J.

CM

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