



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.03.2024

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.4790 of 2021

M.Selvarani

...

Petitioner

versus

1.The Inspector General of Police,
North Zone, Chennai - 16.

2.The Superintendent of Police,
Villupuram District.

...

Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records of the 1st respondent in connection with the impugned orders passed by him in DO.No.1101/2008 in Na.Ka.No.L3/33063/08 dated 22.09.2008 and Na.Ka.No.A1/3605/Ka.Thu.Thu.Va.Ma.12 dated 04.05.2012 and the consequential upgradation orders and pay fixation orders passed by the 2nd respondent in DO No.499/2013 in C No.A4/18388/2013 dated 03.06.2013, DO No.500/2013 in C No.A4/18388/2013 dated 03.06.2013 and DO No.569/2013 in C No.N4/25403/2013 dated 04.07.2013 and quash the same and direct the respondents to count the period of leave availed by the petitioner from 29.09.2008 to 01.07.2010 for service benefits and grant her



continuity of service and further direct the respondents to upgrade the petitioner as Gr-I PC on 01.08.2011 and as well as Head Constable on 01.08.2016 at par with her batchmates who were upgraded as Gr-I PC on 01.08.2011, Head Constable from 01.08.2016 respectively and grant her all consequential service and monetary benefits including pay fixation.

For Petitioner : Mr.M.Muthappan
For Respondents : Mr.K.H.Ravikumar
Government Advocate

ORDER

Heard Mr.M.Muthappan, learned counsel for the petitioner and Mr.K.H.Ravikumar, learned Government Advocate for the respondents and perused the materials available on record.

2. The petitioner has been appointed as Grade-II Women Police Constable in TSP X Battalion, Ulundurpet and after serving for a period of 3 years, she was posted to serve in the District Armed Reserve, Villupuram. At that time, the petitioner applied for leave without pay on private affairs for a period of 2 years and it was sanctioned by the 2nd respondent on 22.09.2008. Subsequently, the petitioner reported duty on 02.07.2010 and she was taken back for duty. By virtue of the order of the Superintendent of Police,



Villupuram District dated 15.11.2010 in DO No.1055/2010, the leave period was regularised as leave without pay.

3. Despite her juniors were being upgraded, the petitioner was not upgraded and she was not communicated as to the non inclusion of her name for upgradation to Grade-I Police Constable along with her batchmates on completion of 10 years of service. Hence, the petitioner gave representation to consider her request, but the same was denied and the impugned orders have been passed.

4. Mr.K.H.Ravikumar, learned Government Advocate for the respondents submitted that the petitioner's claim has not been considered favourably stating that she did not complete 10 years of service as on 01.08.2011 for the purpose of upgradation. It is further submitted that the impugned order relates to her period of loss of pay from 29.09.2008 to 01.07.2010 and hence, it cannot be included in eligible service for upgradation.



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5. Mr.M.Muthappan, learned counsel for the petitioner submitted that the petitioner has taken her eligible leave and hence, her leave period can be treated as eligible leave for upgradation as Grade-I Police Constable on completion of 10 years of service i.e. on 01.08.2011.

6. However, Mr.K.H.Ravikumar, learned Government Advocate for the respondents submitted that the entitlement of the leave is not disputed, but that they will count only the period of service and the period during which the petitioner was on loss of pay cannot be included.

7. Attention was drawn to the earlier order of this Court held in *W.P.No.33314 of 2013 dated 14.07.2023 [A.John Kennedy Vs. The Commandant and others]* in which, the petitioner of that case had brought a similar claim. In fact, in the said case, the petitioner was not sanctioned with leave on loss of pay instead he was facing the disciplinary action and subsequently, he was removed from service. Later, on appeal the above petitioner got the punishment order modified to stoppage of increment for a period of one year. However, the services during his absence were not taken into account



and hence, he filed the above Writ Petition. In the said Petition, this Court has passed the following order:-

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“7.Subsequently, the said order was implemented and the delinquent was imposed with a lesser punishment of stoppage of increment for a period of one year without cumulative effect by the Director General of Police, Chennai and he was reinstated into service, It was also followed in subsequent Judgment, wherein a person who has committed the delinquency of absence from duty on 4 occasions and desertion for 4 occasions was ordered to be reinstated into service. Therefore, the petitioner herein is also entitled to the same relief of continuity of period in which he was out of employment, otherwise, even after reinstatement, he might not get upgradation on par with his junior.”

8. In the above Writ Petition, this Court has held that the petitioner was taken back for duty and the period which was spent by the petitioner out of employment should be treated as eligible leave. In the instant case, the petitioner got her leave sanctioned. So there is no question of unauthorised absence. Having admitted that the petitioner has been sanctioned with the eligible leave, it is unfair on the part of the respondents



to deny the continuity of service and attendant benefits after completion of 10 years of service i.e. on 01.08.2011.

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9. Hence, this Writ Petition is **allowed** and the impugned orders passed by the respondents dated 22.09.2008, 04.05.2012, 03.06.2013 and 04.07.2013 respectively are quashed. The respondents are directed to count the period of leave availed by the petitioner from 29.09.2008 to 01.07.2010 for service benefits and to grant her continuity of service with all monetary benefits, within a period of six (6) weeks from the date of receipt of a copy of this order. No costs.

25.03.2024

Speaking order / Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

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To
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- 1.The Inspector General of Police,
North Zone, Chennai - 16.
- 2.The Superintendent of Police,
Villupuram District.



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R.N.MANJULA, J.

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