



W.P.No.6574 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.12.2024

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THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

W.P.No.6574 of 2021
and W.M.P.No.7144 of 2021

A.Rajendran

... Petitioner

Vs.

1. The Deputy Commissioner of Police
Greater Chennai City Police,
Vepery, Chennai 7

2. The Joint Commissioner of Police,
Headquarters, Greater Chennai City Police,
Vepery, Chennai 7

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the 1st respondent in connection with the impugned order passed by him in PR 188/PR II(1)/2009 dated 27.10.2010 and confirmed by the 2nd respondent in Appeal No.2 & 3/PRIV(2)/2013 dated 07.01.2021 and quash the same and direct the respondents to treat the period of suspension from 18.07.2003 to 29.04.2009 as duty for all purposes and further direct the respondents to draw and disburse the wages within a reasonable time and grant such other further relief.



For Petitioner : Mr.Venkataramani
Senior Counsel
for Mr.M.Muthappan

For Respondents : Mr.R.U.Dinesh Rajkumar
Additional Government Pleader

ORDER

This Writ Petition has been filed for quashment of the impugned order passed by the 1st respondent in PR 188/PR II(1)/2009 dated 27.10.2010 and confirmed by the 2nd respondent in Appeal No.2 & 3/PRIV(2)/2013 dated 07.01.2021. Consequently to direct the respondents to treat the period of suspension from 18.07.2003 to 29.04.2009 as duty for all purposes and further to direct the respondents to draw and disburse the wages.

2. Head the leaned counsel on either side and perused the materials available on record.

3. The brief facts as per the affidavit are as follows:

3.1) The petitioner entered into the service as directly recruited Grade II Police Constable in Chennai City Police, Armed Reserve on 01.08.1984. Thereafter, he was upgraded as Grade -I Police Constable in the year 1996



W.P.No.6574 of

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and further upgraded as Head Constable in the year 1997. He was placed under suspension on 28.10.2002 for his involvement in the criminal case registered in Crime No.789 of 2002 for the offences under Section 120(b) and 420 IPC and in another Crime No.674 of 2003 for the offences punishable under Sections 420, 465, 468 and 471 of IPC respectively. After trial, both the cases in C.C.No.20081 of 2004 and C.C.No.4975 of 2005 have ended in acquittal on 01.08.2005 and 5.02.2009 respectively. Thereafter, the petitioner was reinstated into service by the proceedings of the first respondent in CPO.No.903 of 2009 dated 08.04.2009. Meanwhile, departmental actions were initiated against him in Pr.No.204/PR 1(1)/2002 dated 12.11.2002 and PR.No.188/PR2(1)/2009 dated 25.05.2009 for certain charges. For the charges in Pr.No.204/PR 1(1)/2002, punishment was set aside and also ordered to treat the period of suspension from 29.10.2002 to 17.07.2003 as duty for all purposes. For the charges levelled against him in PR.No.188/PR2(1)/2009 dated 25.05.2009 as if he availed loan from Central Bank of India Mylapore Branch to the tune of Rs.36,000/- by producing bogus documents, he submitted a detailed explanation denying the charges and made representations on 12.6.2009 and 15.06.2009 to drop the departmental action, but he was directed to face the enquiry on the ground



W.P.No.6574 of

that departmental proceedings and the criminal case are not similar.

Thereafter, the Assistant Commissioner of Police was appointed as the enquiry officer to conduct the oral enquiry against the petitioner.

3.2) In the meantime, the petitioner approached this Court in W.P.No.17002 of 2009 to consider his representation dated 15.06.2009 and the same was disposed of by an order dated 21.09.2009 but the petitioner's request was rejected on 21.10.2009 stating that the criminal case and the departmental enquiry are not same. Thereafter, the 1st respondent passed the impugned order dated 27.10.2010 held that, the charges in regard to forgery certificate for availing loan is proved and imposed a punishment of reduction in the time scale of pay for two stages for two years without cumulative effect. Against the impugned order dated 27.10.2010, the petitioner preferred an appeal before the second respondent and the same was rejected by a common order dated 07.03.2013 and also issued an order treating the period of suspension from 18.07.2003 to 29.04.2009 as eligible leave including EOL to the extent necessary. In respect of another PR No.204 of 2002, the appeal PR No.2 of 2013 was allowed and the punishment was set aside.



W.P.No.6574 of

WEB COPY

3.3) Aggrieved by the order of the second respondent dated 07.03.2013, the petitioner filed W.P.No.8782 of 2013 and this Court, by an order dated 03.02.2020, gave a direction to the appellate authority to reconsider his case on merits as per the rule position. Thereafter, the petitioner filed a contempt petition for non-compliance of the order of this Court and subsequently, the second respondent has passed an order in Appeal No.2 & 3/PRIV(2)/2013 dated 07.01.2021, by rejecting the appeal petition by reiterating the averments made in the earlier order passed and refused to analyse the charges. Aggrieved by the orders of the first and second respondent, the petitioner has filed this petition.

4. The learned counsel appearing for the petitioner submitted that the respondent failed to see that the petitioner was suspended from service for registration of criminal cases in Crime No.782 of 2002 and Crime No.674 of 2003. He further submitted that once a government employee is suspended based on a criminal case, but subsequently acquitted of the charges, the period of suspension must be treated as duty for all purposes as if the employee had worked during the relevant period. Hence, he prayed to set aside the impugned orders passed by the respondent and that the total period



W.P.No.6574 of

of suspension from 18.07.2003 to 29.06.2009 be treated as duty for all purposes.

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5. The learned Additional Government Pleader appearing for the respondents filed counter affidavit and submitted that the charges against the petitioner relating to cheating the Branch Manager by producing fake documents for obtaining the loan has been proved. Even though, the criminal case in Crime No. 674 of 2003 was ended in acquittal, the appellate authority agreed with the findings of the enquiry officer and confirmed the punishment awarded by the disciplinary authority and the appeal dated 03.02.2020 was rejected and the suspension period from 18.07.2003 to 29.04.2009 is ordered to be treated as eligible leave including EOL to the extent necessary. He further submitted that the petitioner failed to defend his case, hence, after careful consideration, the disciplinary authority passed the impugned order dated 27.10.2020. The appellate authority in his proceedings dated 07.01.2021 held that the delinquent has deliberately violated the Tamil Nadu Subordinate Police Officer's Conduct Rules, 1964 and concluded that the punishment imposed by the disciplinary authority commensurate with the delinquency and hence, there is no violation of principles of natural justice



W.P.No.6574 of

and the same has been imposed to secure the ends of justice. Hence, he prayed to dismiss the writ petition.

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6. Considering the facts and circumstances of the case and also taking into account the submissions made on either side, this Court is of the view to remit the matter back to the appellate authority for fresh consideration. The appellate authority is directed to consider the matter afresh and pass appropriate orders on merits and in accordance with law, within a period of three months from the date of a receipt of a copy of this order.

7. With the above direction, this writ petition is disposed of. No costs. Consequently, connected Miscellaneous Petition stands closed.

11.12.2024

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Index : Yes / No
Speaking order / Non-speaking order



WEB COPY



W.P.No.6574 of

VIVEK KUMAR SINGH, J.

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To

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