



WEB COPY



W.P.No.9917 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.01.2024

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THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No.9917 of 2022
and
W.M.P.Nos.9634 & 9636 of 2022

S.Sakthivel

... Petitioner

-Vs-

1.The Deputy Inspector General of Police,
Coimbatore Range,
Coimbatore District.

2.The Inspector of Police,
Vigilance & Anti Corruption,
Coimbatore.

... Respondents

Prayer:- Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Certiorarified Mandamus, calling for the records of the 1st respondent in Ref.No.RO53/2021 C.No.1132/D1/2021, dated 06.02.2021 and quash the same and consequently, direct the 1st respondent to consider the representation of the petitioner dated 21.03.2000.

For Petitioners : Mr.B.Gopalakrishnan

For Respondents : Mr.S.Arumugam
Additional Government Pleader



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ORDER

This writ petition has been filed challenging the order of suspension dated 06.02.2021, thereby the petitioner was suspended from service from the date of his arrest i.e., from 04.02.2021.

2. Heard the learned counsel appearing on either side and perused the materials available on record.

3. The petitioner was working as Grade-II Police Constable in Tamil Nadu Police Service and he was transferred to Traffic Wing Police Station, Sulur, Coimbatore. On 04.02.2021, while he was on duty, one Murugan lodged a complaint alleging that when his friend had taken his two wheeler to go to nearby shop on 31.01.2021, during the vehicle check up, he was alleged to have driven a vehicle in drunken mood. One A. Maruthaiahpandi, Sub Inspector of Police, seized the vehicle and demanded a sum of Rs.6,000/- as bribe for releasing the vehicle. Therefore, he requested to take appropriate action as against the Sub Inspector.

4. On receipt of the complaint, a trap was set up by the Vigilance and Anti Corruption Wing, Coimbatore, which registered a FIR in Crime No.5 of 2021 under Section 7(a) of the Prevention of Corruption



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Act, 1988. As per the instruction of the Sub Inspector, the petitioner demanded a sum of Rs.6,000/- from the complainant on 04.02.2021 and got red-handed. Thereafter, he was arrested and remanded to judicial custody. After completion of investigation, the second respondent filed final report which has not been taken cognizance by the Trial Court. So far, no disciplinary proceeding was initiated by the respondents.

5. According to the petitioner, he has not been paid any subsistence allowance so far. The prolonged suspension cannot be sustained and it is liable to be set aside. Further, even assuming that the petitioner was paid subsistence allowance, it cannot be paid through out the tendency of trial in criminal case. The petitioner was suspended from service on 06.02.2021. Now, almost 3 years completed and no charge memo had been served on the petitioner in the disciplinary proceeding, though there is no bar to proceed with the disciplinary proceeding. Pending the criminal case, the first respondent did not even issue a charge memo to the petitioner by initiating disciplinary proceeding. In the criminal case also, after filing of final report, it is pending for taking cognizance. After taking cognizance, it will take some more time for completion of entire trial. Now the petitioner is entitled for maximum



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subsistence allowance, that too, without any work. Therefore, in order to avoid any loss to the Government, the suspension order can be revisited by the first respondent.

6. Therefore, the first respondent is directed to revisit the order of suspension of the petitioner and post the petitioner in any of non-sensitive post within a period of twelve weeks from the date of receipt of a copy of this order.

7. With the above direction, this Writ Petition stands disposed of. Consequently, connected miscellaneous petitions are closed.
No costs.

02.01.2024

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



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To

1.The Deputy Inspector General of Police,
Coimbatore Range,
Coimbatore District.

2.The Inspector of Police,
Vigilance & Anti Corruption,
Coimbatore.

3. The Public Prosecutor,
High Court,
Madras.



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G.K.ILANTHIRAIYAN, J.

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