



WEB COPY



W.P.No.19292 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.07.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.19292 of 2024

C.Rathinaswamy

... Petitioner

Vs

1. The Superintendent of Police,
District Police Office,
Palladam Main Road,
Tiruppur District,
Tamil Nadu – 641 603.
2. The Deputy Inspector General of Police,
Coimbatore Range,
No.5, Dr.Abdur Rahim Road,
Coimbatore Central, Near Race Course,
Coimbatore – 641 018.
3. The Additional Director General of Police (L & O),
Office of Director General of Police,
Dr.Radhakrishnan Salai, Mylapore,
Chennai – 600 004.

.... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the respondents to consider the payment of the subsistence allowance, back wages and other consequential monetary benefits to the petitioner based on the representations dated 15.09.2021 and 24.11.2023.

For Petitioner : Mr.S.Karthikei Balan



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For Respondents : Mr.S.Arumugam
Government Advocate

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ORDER

This writ petition has been filed for direction directing the respondents to consider the payment of the subsistence allowance, back wages and other consequential monetary benefits to the petitioner based on the representations dated 15.09.2021 and 24.11.2023.

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

3. The petitioner was originally recruited as Grade – II Police Constable. Thereafter, he was promoted to the post of Grade I Police Constable and subsequently, he was promoted to the post of Head Constable. While being so, on 18.05.2010, the petitioner was suspended from service, on the allegation that he had extra marital affair and pursuant to the registration of FIR in Crime No.210 of 2010 and Crime No.417 of 2010, disciplinary proceeding was initiated as against the petitioner and he was imposed with the punishment of compulsory retirement from service with effect from 29.07.2011. Aggrieved by the same, the petitioner preferred an appeal and the same was rejected by an order dated 14.12.2011. In the meanwhile, the criminal case in S.C.No.345 of



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2011, ended in acquittal on 21.03.2012. In respect of another criminal case, the petitioner was discharged from all the charges by an order dated 20.09.2013 in CrI.R.C.No.736 of 2013. Thereafter, the petitioner filed a review petition to review the order of compulsory retirement. It was rejected and aggrieved by the same, the petitioner preferred a writ petition before this Court in W.P.No.17087 of 2013. This Court, by an order dated 27.06.2018, remanded the matter to the respondents to impose lesser punishment than compulsory retirement from service.

4. It was challenged before the Hon'ble Division Bench of this Court in W.A.No.142 of 2019 and this Court, set aside the order and remanded the matter to the respondents for fresh disposal. Accordingly, by the proceedings dated 04.01.2021, the order of punishment was modified to the effect that postponement of increment for a period of three years which shall operate to postpone his future increments. Thereafter, the petitioner was reinstated into service and he is now working as Head Constable. Therefore, the petitioner submitted a representation seeking subsistence allowance for the period from 18.05.2010 to 28.07.2011.

5. The learned counsel for the petitioner would submit that as per Rule 54A(3) of the Tamil Nadu Fundamental Rules, the petitioner is entitled to



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receive full pay and allowance for the period of suspension and punishment period as per law.

6. It is relevant to extract Rule 54A(3) of the Tamil Nadu Fundamental Rules as follows:-

“54A(3) If the dismissal, removal or compulsory retirement of a Government Servant is set aside by the Court on the merits of the case, the period intervening between the date of dismissal, removal or compulsory retirement including the period of suspension preceding such dismissal, removal or compulsory retirement, as the case may be, and the date of reinstatement shall be treated as duty for all purposes and he shall be paid the full pay and allowances for the period, to which he would have been entitled, had he not been dismissed, removed or compulsory retired or suspended prior to such dismissal, removal or compulsory retirement as the case may be.”

Therefore, the petitioner is entitled to receive salary for the period of suspension and punishment.

7. In view of the above, the respondents are directed to disburse the subsistence allowance, back wages and other consequential monetary benefits to the petitioner for the period of suspension as well as punishment, within a period of eight weeks from the date of receipt of a copy of this order.

8. With the above directions, this Writ Petition stands allowed. No costs.



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Internet: Yes

Index : Yes/No

Neutral Citation : Yes/No

Speaking/Non Speaking order
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G.K.ILANTHIRAIYAN. J.

mn

To

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