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W.P.No.30014 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED : 28.06.2024**

CORAM

**THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER  
KUMAR**

**W.P.No.30014 of 2019**  
**and**  
**W.M.P.No.29926 of 2019**

G.Uthirakumar

... Petitioner

Vs.

1. The Superintendent of Police,  
Kanchipuram District,  
Kanchipuram.

2. The Accountant General (A&E),  
Tamil Nadu, Teynampet,  
Chennai – 600 018.

3. The Treasury Officer,  
District Treasury,  
Kanchipuram.

... 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 pertaining to the impugned orders in Admissibility Report Post Audit case of Police Department vide No.P05/10526676/3/P0526676 dated 05.04.2019 and



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commutation payment order No.P05/10526676/3/P0526676 dated 05.04.2019 on the file of the second respondent and quash the same, consequentially direct the respondents to fix the correct pension and to pay all attendant monetary to the petitioner by effecting notional promotion to the post of Special Sub-Inspector with effect from 01.03.2011 on par with the petitioner's batchmates within a reasonable period and pass such further or other orders as this Hon'ble Court may deem fit.

For Petitioner : Mr.R.Raja Rajan

For Respondent : M/s.E.Ranganayaki,  
Additional Government Pleader

### **ORDER**

The petitioner herein, who was initially appointed as 'Grade-II, Police Constable' was promoted to the post of 'Grade-I, Police Constable' and at that stage, he was subjected to disciplinary proceedings resulting in imposing a punishment of compulsory retirement from service through proceedings bearing PR.No.116/1991 dated 28.12.2004. Though the petitioner filed an appeal against the said order of compulsory retirement, the same was confirmed by the Appellate Authority by an order dated 01.04.2005. Aggrieved by the said order of punishment, the petitioner approached this



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Court by filing Writ Petition in W.P.No.1734 of 2005 and a learned Single Judge of this Court by an order dated 18.10.2011 allowed the said Writ Petition on the ground of disproportionate punishment and remitted the matter back to the Respondent No.1. This Court while remitting the matter back to the Respondent No.1 after setting aside the punishment of compulsory retirement, further directed that the petitioner shall not be entitled for any backwages, in case of his reinstatement. However, this Court made it clear that he shall be entitled for continuity of service. Accordingly, the Respondent No.1 passed a consequential order through proceedings bearing C.No.J2/34749/2011 dated 02.12.2011, imposing a punishment of reduction in pay by two stages for a period of two years with cumulative effect. Accordingly, the petitioner was reinstated into service and the said punishment was implemented. Thereafter, the petitioner submitted a representation dated 11.06.2012 requesting for promotion to the post of 'Head Constable'.

2. The case of the petitioner was considered for promotion and he was promoted to the post of 'Head Constable' through proceedings bearing



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No.A1/67668/2013 dated 03.01.2014 and thereafter, the petitioner retired from service on attaining the age of superannuation on 31.12.2018.

Accordingly his terminal benefits were settled by issuing the pension payment orders. It is aggrieved by the said pension payments order issued by the respondents, the petitioner approached this Court by filing the present Writ Petition contending that the petitioner is entitled for counting of entire services rendered by him in the post of 'Grade-I, Police Constable' by virtue of the orders passed by this Court in W.P.No.1734 of 2005 dated 18.10.2011 and therefore, he is entitled for upgradation to the post of 'Head Constable', on completion of 5 years of service as 'Grade I, Police Constable' and for further upgradation to the post of 'Special Sub-Inspector of Police' on completion of 25 years of overall service and 10 years of service under the post of 'Head Constable'. But the respondents have not counted the entire service rendered by the petitioner in terms of the order passed by this Court and therefore contending that he is entitled for upgradation to the post of 'Head Constable' on completion of 5 years of service as 'Grade-I Police Constable' and for further promotion to the post of 'Special Sub-Inspector of Police' on completion of 10 years of service as 'Head Constable' and



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accordingly seeking revision of his pension payment orders by giving notional promotion.

3. Admittedly, on considering the case of the petitioner for reinstatement into service, the petitioner was promoted to the post of 'Head Constable' through proceedings dated 03.01.2014. If at all the petitioner is aggrieved by the said order or is of the view that he is entitled for promotion to the post of 'Head Constable' notionally from prior date, he should have taken appropriate steps against the said order. But the petitioner has chosen to retire from service without agitating against the said promotional order dated 03.01.2014. But it is only after he retired from service and after pension payment order was issued, the petitioner approached this Court by filing the present Writ Petition.

4. No doubt, by virtue of the order passed by this Court in W.P.No.1734 of 2005 dated 18.10.2011, this Court granted the benefit of continuity of service and denied only backwages and therefore, the



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petitioner's right to claim benefit of continuity of service and all other consequential benefits cannot be denied, however, the petitioner has not chosen to agitate for the same, but he is only seeking revision of pension payment order without asking for the basic reliefs, such as upgradations or is being claimed by the petitioner.

5. In the circumstances, this Court is not inclined to interfere with the impugned orders and accordingly, the Writ Petition is disposed of. However, it is left open to the petitioner to pursue his claim for notional upgradation to the post of 'Head Constable', 'Special Sub-Inspector of Police' etc., by virtue of the service rendered by him and the petitioner is also granted liberty to submit a representation before the Respondent No.1 within a period of six weeks from the date of receipt of a copy of this order and in case, if any such representation is submitted, the Respondent No.1 shall consider the same and pass appropriate orders in accordance with law within a further period of eight weeks from the date of submission of such representation. No costs. Connected Miscellaneous Petitions, if any shall stand closed.



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Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No

To

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Kanchipuram District,  
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2. The Accountant General (A&E),  
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**MUMMINENI SUDHEER KUMAR, J.**

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