



W.P(MD)No.2216 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **02.01.2024**

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THE HON'BLE MRS.JUSTICE L.VICTORIA GOWRI

W.P(MD)No.2216 of 2022
and
W.M.P(MD)No.1931 of 2022

Vengadesh

... Petitioner

Vs.

The Superintendent of Police,
Thoothukudi District.

... Respondent

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the order of the respondent in D.O.No. 294/2020, dated 31.03.2020 and quash the same and consequently direct the respondent to grant stoppage of increment for two years with effect from 29.05.2015 to give all monetary benefits to the petitioner.

For Petitioner : Mr.P.Muthusamy

For Respondent : Mr.S.Shaji Bino
Special Government Pleader



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ORDER

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The present writ petition has been filed to call for the records pertaining to the order of the respondent in D.O.No.294/2020, dated 31.03.2020 and quash the same and consequently direct the respondent to grant stoppage of increment for two years with effect from 29.05.2015 to give all monetary benefits to the petitioner.

2. The petitioner joined in the Tamil Nadu Police Department as Grade-II Police Constable on 01.03.2008. During his service at Thattarmadam Police Station at Thoothukudi District, Sathankulam Deputy Superintendent of Police had issued a charge memo under Rule 3 of Tamil Nadu Police Subordinate Service (Discipline and Appeal) Rules 1955. An Enquiry was conducted and the said charge was proved. As a result of which, the Superintendent of Police, Thoothukudi District passed an order removing the petitioner from service on 29.05.2015. As against the same, the petitioner had filed an appeal before the Deputy Inspector General of Police, Tirunelveli Range and the same was rejected on 01.09.2015. Thereafter, a review petition was filed before the Director General of Police, Chennai on 28.04.2016. That was also dismissed on 28.07.2016. As against which, a mercy petition was filed by the



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petitioner to the Government on 03.08.2017. The mercy petition was disposed in favour of the petitioner by modifying the punishment of “Removal from Service” to “Stoppage of increment for two years with cumulative effect” which would take effect from the date of original punishment order as per 29 A (b) of Fundamental Rules. Following which, on 31.03.2020, the Superintendent of Police, Thoothukudi District passed an order which is extracted as follows:

“On his mercy petition to the Government, the above said punishment was modified into that of “Stoppage of increment for two years with cumulative effect” in Government Order in G.O (D) no.318, dated 14.02.2020. Accordingly, he is reinstated into service with immediate effect with modified punishment of stoppage of next increment for two years with cumulative effect and his next increment is postponed for 2 years with cumulative effect.”

Challenging the same, the present writ petition came to be filed.

3. The learned Special Government Pleader appearing for the respondents filed a counter and vehemently submitted that at every stage of the petitioner's appeal before the various authorities, the department had handled the plight of the petitioner with due diligence and had



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passed appropriate orders. Hence, it is not necessary to interfere with the same and pressed for dismissal of the writ petition.

4. However, the learned counsel for the petitioner vehemently contended that the consequential order passed by the Superintendent of Police, Thoothukudi District on 31.03.2020 has nothing about the effect of the same as per Rule 29 A (b) of Fundamental Rules.

In view of the said submission, Rule 29 A (b) of Fundamental Rules is extracted as follows:

“FR.29-A (b) If the said order is modified, the pay shall be regulated as if the order as so modified had been made in the first instance.”

5. Heard the learned counsels on either side and perused the material available in records.

6. In view of the same, I am inclined to observe that the order passed by the Superintendent of Police, Thoothukudi District on 31.03.2020 would take effect as if it has been passed on the date of the first instance i.e., on the date of his dismissal with effect from 27.05.2015.



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WEB COPY 7. Accordingly, this Writ Petition stands disposed of. No costs.

Consequently, connected Miscellaneous Petition is closed.

02.01.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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To

The Superintendent of Police,
Thoothukudi District.



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L.VICTORIA GOWRI,J.

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Order made in
W.P(MD)No.2216 of 2022

Dated:
02.01.2024