



WP(MD) No.10147 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **25.04.2024**

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD) No.10147 of 2024

and

W.M.P(MD)No.9163 of 2024

V.Amarnath

... Petitioner

Vs.

1.The State of Tamil Nadu

Rep. by its Secretary to Government,,

Home (Police) Department,

Fort St. George,

Chennai - 09.

2.The Deputy Inspector of General of Police,

Alagar Kovil Main Road,

Madurai – 625 002.

3.The Superintendent of Police

Madurai North,

Madurai.

...Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus to call for the records of the 3rd respondent and by his impugned official proceedings in No. C.No.N3/671822/2013 dated 06.11.2013 and set aside the same consequently direct the respondents to implement the order passed in O.A.No.4500/1996 dated 18.09.2001 in full which was reiterated by virtue of the order in W.P.No.4105 of 2004 dated 08.12.2004 of this Court by granting all the monetary and service benefits with interest.

For Petitioner : Mr.S.Satheesh Kumar

For Respondents : Mr.M.Lingadurai

Special Government Pleader

ORDER

The petitioner has filed this Writ Petition seeking for a Writ of Certiorarified Mandamus to call for the records of the 3rd respondent and by his impugned official proceedings in No.



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C.No.N3/671822/2013 dated 06.11.2013 and set aside the same and consequently, direct the respondents to implement the order passed in O.A.No.4500/1996 dated 18.09.2001 in full which was reiterated by virtue of the order in W.P.No.4105 of 2004 dated 08.12.2004 of this Court by granting all the monetary and service benefits with interest.

2. Heard Mr.S.Satheesh Kumar, learned counsel for the petitioner and Mr.M.Lingadurai, learned Special Government Pleader for the respondents.

3. By consent of both parties, this Writ Petition is taken up for final disposal at the stage of admission itself.

4. The petitioner suffered a disciplinary proceedings on certain allegations and he was removed from service and the punishment has attained finality, in view of the subsequent appeals got dismissed and the Review petition filed before the Government



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also got rejected. However, the petitioner has preferred an Original Application before the Administrative Tribunal, in which, an order has been passed to disburse the eligible monetary benefits to the petitioner. The relevant part of the order of the Tribunal made in O.A.No.4500 of 1996 dated 18.09.2001 is as under :

“6.Though we have set aside the order on the ground that the punishment is disproportionate, yet we are not inclined to remit the matter to the respondents for fresh disposal because first time there was an order of removal and that was set aside and the meters was remitted to the 3rd respondent for fresh disposal. second time this impugned order has been passed. If we remit the matter, it would be a second time remittal. The remand during the first time was not on account of any fault committed by the petitioner. Now also the remittal is necessitated not on account of any lapse on the part of the petitioner. Therefore, if we remit the matter for the second time it would tantamount to harassment and it would also be against the principles enshrined under Article 21 of the Constitution of India. Though Article 21 refers to



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double punishment, the same disciplinary proceedings conducted for two or more time, such proceedings will have the same nature of double punishment to the delinquent. For the foregoing reasons, we are not inclined to remit the matter.

7. In the result, the O.A. is allowed and the petitioner is entitled to all the monetary and service benefits.”

5. Consequent to this order, the petitioner appears to have got reinstated and was allowed to retire on 31.03.2006 on his attaining the age of superannuation. Subsequently, the petitioner has filed two writ petitions, one is W.P.No.4105 of 2004 for disburse the monetary benefit by effecting the service benefits for which he was entitled as per the orders of O.A.No.4500 of 1996 dated 18.09.2001. In the said Writ Petition, the following order has been passed on 08.12.2004 :

“3. Considering the limited scope of the prayer, this writ petition is disposed of by directing the respondents to consider the petitioner's



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representation dated 27.4.2003 regarding the monetary and service benefits which he is entitled as per the order of the Tribunal in O.A.No.4500 of 1996, accordance with law within a period on merits and in of three weeks from the date of receipt of a copy of this order. The writ petition is ordered accordingly. No costs. Consequently, the connected WPMP is closed.”

6. Since the petitioner did not get any benefit as ordered by the Court and the Tribunal, he once again filed another Writ Petition in W.P.(MD)No.9592 of 2007 and in the same also, the following orders have been passed on 21.10.2013 :

“2. Therefore, without going into the merits of the matter, I only direct the third respondent to consider the representation of the petitioner, dated 30.10.2007 and pass orders on the same on merits and in accordance with law, within a period of six weeks from the date of receipt of a copy of this order.”



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7. However, in the order, dated 06.11.2013, the petitioner was allowed to get only some of the service benefits as seen under paragraph No.5 of the said order. The petitioner did not make any specific claim as to which of the benefits he was deprived of and what is the exact relief now sought for by him. However, it appears from the impugned order that the petitioner is not entitled to some of the benefits during which he was out of service for the period between 04.09.1982 and 25.05.2003. Unless any order is passed to regularise the above period either as duty or as any other mode, the entitlement of the petitioner for the above period cannot be settled.

8. Even in the order of the Tribunal, there is no order as to how to treat the period under which the petitioner was out of service, due to the then pending disciplinary action against him.

9. In view of the above, the petitioner is at liberty to give a representation to the respondents within a period of two



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weeks from the date of receipt of a copy of this order and on receipt of the same, the respondents are directed to pass appropriate orders to regularise his services, for the period when he was out of service (i.e.,) from 04.09.1982 to 25.05.2003 on its own merits and in accordance with within a period of six weeks thereafter.

10. With the above observation and direction, this writ Petition is **disposed of**. No costs. Consequently, connected miscellaneous petition is closed.

25.04.2024

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

RM



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To
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State of Tamil Nadu
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R.N.MANJULA, J.

RM

Order made in
W.P.(MD)No.10147 of 2024

25.04.2024