



W.P.(MD)No.12741 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.06.2024

CORAM

THE HONOURABLE MS JUSTICE R.N.MANJULA

W.P.(MD)No.12741 of 2024
and WMP(MD)No.11344 of 2024

A.Simon William Rajaduari

... Petitioner

Vs.

1. The State of Tamil Nadu represented by the
Additional Chief Secretary to Government,
Home (Police V) Department,
Secretariat,
Chennai-600 009.

2. The Chairman,
Tamil Nadu Uniformed Services Recruitment Board,
807, 2nd Floor, Anna Salai,
Chennai 600 002.

3. The Director General of Police,
Mylapore,
Chennai-600 004.



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4. The Deputy Inspector General of Police,
Tirunelveli Range,
Tirunelveli.

5. The Superintendent of Police,
Tirunelveli District,
Tirunelveli.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in D.O.No. 301/2022/C.No.P1/PR.36/2011 dated 04.04.2022 and the consequential impugned order in Na.Ka.No.P3/28463/2021 dated 21.03.2024 on the file of the Respondent No.5 and quash the same as illegal and consequently for a direction, directing the Respondent No.5 to regularize the period of suspension as duty period and grant annual increments along with arrears and other consequential benefits to the petitioner within the time period stipulated by this Court.

For Petitioner : Mr.J.Pandi Dorai

For Respondent : Mr.J.Ashok

Additional Government Pleader



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ORDER

This writ petition has been filed seeking a Writ of Certiorarified Mandamus to quash the impugned order in D.O.No. 301/2022/C.No.P1/PR.36/2011 dated 04.04.2022 and the consequential impugned order in Na.Ka.No.P3/28463/2021 dated 21.03.2024 on the file of the 5th respondent and quash the same as illegal and for a consequential direction to the 5th respondent to regularize the period of suspension as duty period and grant annual increments along with arrears and other consequential benefits to the petitioner within the specified time.

2. Heard Mr.J.Pandi Dorai, learned counsel appearing for the petitioner and Mr.J.Ashok, learned Additional Government Pleader appearing for the respondents.

3. The petitioner has challenged the impugned orders dated 04.04.2022 and 21.03.2024 through which the petitioner's period of suspension between 01.01.2011 to 23.12.2011 has been treated as



eligible leave instead of treating it as duty period.

4. The learned counsel for the petitioner submitted that the petitioner has been kept under suspension on the allegations of involvement in a criminal case. But the said case which formed the basis for the suspension has been quashed. Hence, the petitioner claims the benefit under Sections 54 B (3) of the Fundamental Rules which reads as follows:

"54-B-(3):Where the authority competent to order reinstatement is of the opinion that the suspension was wholly unjustified, the Government servant shall, subject to the provisions of sub-rule (8), be paid the full pay and allowances to which he would have been entitled, had he not been suspended :

Provided that where such authority is of the opinion that the termination of the proceedings instituted against the Government servant had been delayed due to reasons directly attributable to the Government servant, it may, after giving him an opportunity to make his representation (within sixty days from the date on which the communication in this regard is served on him) and after considering the representation, if any, submitted by him, direct, for reasons to be recorded in writing, that the Government servant shall be paid for the period of such delay only such amount (not being the whole) of such pay and allowances as it may determine."



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5. But in the impugned order it is stated that the petitioner has been given with charges on the allegation of involvement in a criminal case and he has also subjected to disciplinary proceedings and on the conclusion of which he was issued with the punishment of postponement of one increment for three years without cumulative effect.

6. In the present case, the petitioner has been subjected to the disciplinary proceedings and at the end he was also imposed with punishment. However, the learned counsel for the petitioner submitted that if the disciplinary proceedings was initiated with a major penalty, at the conclusion of the disciplinary proceedings if the delinquent has been imposed with a minor penalty, then the delinquent is entitled for full pay and allowances for the suspension period. In this regard, reliance was placed in the judgment of this Court in the review application in Review Application (MD)No.139 of 2015 dated 24.09.2019 wherein it is held as under:

"13. As per the hand book for inquiry officers and disciplinary authorities, on the conclusion of the disciplinary proceedings, if a minor penalty is imposed, suspension is regarded as unjustified and full pay and allowances and other



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consequential benefits are given to him and the period of suspension is treated as duty. Provisions relating to regularization of the period of suspension are contained in Fundamental Rules (FR) 54, 54A and 54B. Broadly, the provisions are:

(a) When the proceedings do not lead to imposition of any penalty, the entire period of suspension will be treated as duty and the Government Servant will be entitled for full pay and allowances for the above period.

(b) Same will be the position, when at the end of the proceedings, only minor penalty is imposed."

7. As the petitioner has been given with the charge under Section 17 (b) and at the conclusion of the proceedings he was given with the minor penalty of postponement of one increment, the authority concerned can reconsider the request of the petitioner to consider his period of suspension as that of duty in the light of the earlier judgment rendered in Review Application (MD)No.139 of 2015 as well as in the light of the Fundamental Rules 54, 54A and 54B.

8. In view of the afore-stated reasons, the impugned orders are set aside and the matter is remitted back to the 5th respondent for fresh consideration. The 5th respondent shall consider and pass orders afresh



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within a period of three weeks from the date of receipt of a copy of this order.

9. With the above direction, this writ petition is **disposed of**. No Costs. Consequently, connected miscellaneous petition is closed.

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NCC :yes/no

Index :yes/no

PJL

To

1. Additional Chief Secretary to Government,
State of Tamil Nadu, Home (Police V) Department,
Secretariat, Chennai-600 009.

2. The Chairman,
Tamil Nadu Uniformed Services Recruitment Board,
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3. The Director General of Police,
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R.N.MANJULA, J.

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