



*W.P.(MD)Nos.21115 of 2015 & 23460 of 2016*

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED: 23.09.2024**

**CORAM**

**THE HON'BLE MR.JUSTICE ABDUL QUDDHOSE**

**W.P.(MD)Nos.21115 of 2015 & 23460 of 2016**

M.Ganesan : Petitioner in both Writ Petitions  
Vs.

1.The Director General of Police,  
Tamil Nadu,  
Chennai – 04.

2.The Deputy Inspector General of Police,  
Dindigul Range,  
Dindigul.

3.The Superintendent of Police,  
Theni District,  
Theni.

: Respondents in W.P.(MD)No.21115/15

1.The Secretary to Government,  
Government of Tamil Nadu,  
Home Department,  
Fort St.George, Chennai.

2.The Director General of Police,  
Kamarajar Salai,  
Chennai – 600 004.



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3.The Deputy Inspector General of Police,  
Dindigul Range,  
Dindigul.

4.The Superintendent of Police,  
Theni District,  
Theni.

: Respondents in W.P.(MD)No.23460/16

**PRAYER in W.P.(MD)No.21115 of 2015:** Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order R.C.No.201618/AP, 2(3)/2015 passed by the first respondent dated 30.09.2015 and quash the same and issue consequent direction directing the first respondent to promote the petitioner as Special Sub-Inspector after considering the period of suspension from 14.01.2008 to 30.09.2008, 01.10.2008 TO 23.03.2011 as period on duty for all purpose with back wages and all attendant service and monetary benefits.

**PRAYER in W.P.(MD)No.23460 of 2016:** Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Certiorarified Mandamus, calling for the records of the first respondent herein in G.O.(2D)No.41, Home (Pol.VI) Department dated 07.02.2011 insofar as the period of absence till reinstatement



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can be treated as leave to which is eligible and quash the same and consequently direct the respondents herein to regularize the service of the petitioner from 14.01.2008 to 23.03.2011 and to give all service benefits including promotion and other monetary benefits.

For Petitioner : Mr.K.Hemakarhikeyan

For Respondents : Mr.D.Farjana Ghoushia

Special Government Pleader

[In both Writ Petitions]

### **COMMON ORDER**

W.P.(MD)No.23460 of 2016 has been filed challenging the order dated 07.02.2011 passed by the first respondent modifying the punishment imposed on the petitioner to one of stoppage of increment for two years without cumulative effect and the period of suspension of the petitioner from 14.01.2008 to 29.01.2008 was treated as 15 days EL, 30.01.2008 to 02.04.2008 as period of un-earned leave [64 days] and from 03.04.2008 to 30.09.2008 as period of loss of pay [181 days] and from 01.10.2008 to 23.03.2011 as out of employment period [906 days]. The petitioner is aggrieved by the aforesaid punishment imposed by the first respondent under the impugned order.

2.W.P.(MD)No.21115 of 2015 has been filed challenging the order dated 30.09.2015 passed by the first respondent rejecting



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the request of the petitioner for grant of promotion to the post of Special Sub-Inspector after considering the period of suspension from 14.01.2008 to 30.09.2008, 01.10.2008 to 23.03.2011 as period on duty.

**3.** Since both the writ petitions arise out of the same subject matter, they are disposed of by a common order.

**4.** The following facts are undisputed. Disciplinary proceedings were initiated against the petitioner for his unauthorised absence from duty and for his involvement in a criminal case. The petitioner was involved in an accident case and he was charged for causing a motor accident and for not possessing the driving license at the time of the accident. On account of the same, the petitioner was suspended from service by a suspension order issued by the respondents on 14.01.2008.

**5.** In the disciplinary proceedings, the petitioner participated in the enquiry conducted by the enquiry officer appointed by the respondents. The enquiry officer submitted a report holding that the charge framed against the petitioner has been proved and the petitioner was held guilty and based on the same, the fourth respondent passed an order dated 14.10.2008, dismissing the





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**7.** Learned Counsel for the petitioner would submit that the petitioner is now aggrieved only by the punishment that the period of petitioner's absence has to be treated as period of absence from the date of suspension till the date of his reinstatement as leave period. According to him, considering the fact that the criminal case has ended in acquittal, the aforesaid punishment imposed by the first respondent in the impugned order is harsh and it has to be set aside.

**8.** On the other hand, learned Special Government Pleader appearing for the respondents would submit that the acquittal order passed in favour of the petitioner by the Criminal Court was passed only by giving the benefit of doubt to the petitioner. She would also submit that admittedly the petitioner was not possessing a driving license when he caused the motor accident. Therefore, she would submit that the question of once again modifying the punishment of the petitioner by this Court at this stage does not arise.

**9.** She would also submit that the connected writ petition namely W.P.(MD)No.21115 of 2015, wherein the petitioner is seeking for promotion to the post of Special Sub-Inspector by treating the period of suspension from 14.01.2008 to 30.09.2008, 01.10.2008 to 23.03.2011 as period of duty is also not maintainable.



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For the aforesaid reasons, she would also submit that subsequent to the filing of this Writ Petition, the petitioner has been promoted to the post of Sub-Inspector on 19.10.2020.

**10.**The petitioner participated in the enquiry proceedings and he had also submitted his explanation and only after giving due consideration to his explanation and only based on the evidence available on record, the enquiry report was submitted. Originally, by order dated 14.10.2008, the fourth respondent, based on the enquiry report dismissed the petitioner from service. The appellate authority namely the third respondent also confirmed the order of the fourth respondent by dismissing the appeal by its order dated 05.03.2009. In the review petition filed by the petitioner before the second respondent, the second respondent modified the punishment imposed on the petitioner to one of compulsory retirement by its order dated 10.05.2009. Thereafter, the Mercy Petition filed by the petitioner before the first respondent seeking for further interference with the punishment was rejected by the order of the first respondent dated 14.12.2009 through G.O.(2D)No.497.

**11.**The petitioner was acquitted of the criminal case. It was a motor accident case. By the order of the Criminal Court in S.T.C.No.2238 of 2008, dated 11.08.2010. However, as seen from



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the aforesaid judgment passed by the criminal Court, only by giving the benefit of doubt to the petitioner, he was acquitted. Thereafter, based on the acquittal order passed by the criminal Court, the petitioner once again filed a Mercy Petition before the first respondent. By the impugned order dated 07.02.2011, the first respondent further reduced the punishment of the petitioner to one of stoppage of increment for a period of two years without cumulative effect and by treating the period of absence of the petitioner from the date of his suspension till the date of his reinstatement as leave period with which he is eligible.

**12.**This Court under Article 226 of the Constitution of India cannot re-appreciate the evidence that too when the first respondent only based on the evidence available on record which was placed before the enquiry officer has come to the conclusion that the petitioner is liable to be punished for the charges framed against him in the disciplinary proceedings. As seen from the impugned orders, the petitioner's punishment has also been reduced to the maximum extent possible even though originally by the order of the fourth respondent dated 14.10.2008, he was dismissed from service. The petitioner was also acquitted from the criminal case only by giving benefit of doubt to him. Therefore, this Court is not inclined to interfere with the impugned order of the first respondent dated



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07.02.2011 passed by the first respondent which is the subject matter of W.P.(MD)No.23406 of 2016.

**13.**Insofar as the connected Writ Petition in W.P.(MD)No. 21115 of 2015 is concerned, in view of the fact that this Court is not entertaining W.P.(MD)No.23460 of 2016, this Court is also not interfering with the order dated 30.09.2015 passed by the first respondent rejecting the petitioner's request to promote him as Special Sub-Inspector by treating the period of his suspension from 14.01.2008 to 30.09.2008, 01.10.2008 to 23.03.2011 as period on duty for all purpose with backwages and with all attendant monetary and service benefits.

**14.**In the result, there is no merit in these Writ Petitions. There shall be no order as to costs.

**23.09.2024**

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



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**ABDUL QUDDHOSE, J.**

MR

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