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W.P.No.5733 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 1/4/2025

C O R A M

The Hon'ble **Mrs.JUSTICE V.BHAVANI SUBBAROYAN**

Writ Petition No.5733 of 2023

P. Velu

...

Petitioner

Vs

1. The Director General of Police
Police Headquarters
Radhakrishnan Salai
Mylapore
Chennai 600 004.
2. The Commissioner of Police
132 EVK Sampath Road
Vepery, Periyamet
Chennai 600 007.
3. The Joint Commissioner of Police
South Zone, Greater Chennai Corporation
St. Thomas Mount
Chennai 600 016.
4. The Inspector of Police
M 6 Manali Police Station
Chennai 600 054.

...

Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus to call for the records of the respondents made in D.O.No.2013/98 in G3/PR.42/92 on the file of Superintendent of Police, Chengalpattu East District dated 7/8/1998 and quash the same and consequently direct the respondents to settle all the terminal benefits of petitioners father namely Mr.B.Perumal PC 1649 with interest due to the presumed death of his father by considering the petitioner's representation dated 26/4/2023 within the time stipulated by this Court (Prayer amended vide order dated 28/4/2023 made in W.M.P.No.13313 of 2023 in W.P.No.5733 of 2023 by PDAJ).

For petitioner	...	Ms.S.Mahadevi
For respondents	...	Mr.R.U.Dinesh Rajkumar Additional Government Pleader

ORDER

This writ petition has been filed to quash the order dated 7/8/1998, passed by the Superintendent of Police, St.Thomas Mount, Chennai, made in D.O.No.2013/98 in G3/PR.42/92 and consequently direct the respondents to settle all the terminal benefits of petitioner's father namely Mr.B.Perumal



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PC 1649 with interest by considering the petitioner's representation dated 26/4/2023.

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2. The case of the petitioner in brief are as follows:-

The father of the petitioner had joined as Police Constable in Law & Order Department on 1/10/1975 and later was promoted to the post of Grade – I, Police Constable and had rendered 22 years of service. The petitioner's mother P.Dhanam died in the year 1996 and the father of the petitioner went missing in the year 1997. A complaint was given by one of the relatives in Manali Police Station regarding sudden disappearance of the father of the petitioner.

3. The petitioner had filed RTI application on 19/7/2019 seeking to furnish terms of service and service book of his father. Since there was no response, the petitioner gave a representation dated 26/7/2021 to the Director General of Police to furnish the information sought in the RTI application and to settle all the terminal benefits entitled to his father. A reply to the RTI application was furnished by the third respondent vide

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RC.No.206/PR-II (S)/2022 dated 20/6/2022 stating that the petitioner's father had left the force on 6/2/1997 and further mentioned that service records of his father is not available at South Zone, GCP.

4. Thereafter, he submitted a representation dated 9/1/2023 before the second and third respondents to disburse the terminal benefits of his father and to provide employment on compassionate ground. Since no action was taken by the respondents, petitioner has come forward with the instant writ petition praying for the relief as stated therein.

5. The Joint Commissioner of Police, South Zone, Chennai, has filed a counter affidavit on behalf of the respondents, wherein it is stated that father of the petitioner while serving at St. Thomas Mount Police Station, along with PC 2225 Mariappan and three others was involved in a criminal case. The case was registered as Crime Nos.1082 to 1086 of 1989, under Section 4 (1) (A) of TNP Act and they were arrested on 14/8/1989 while transporting illicit arrack of three plastic cans, each containing 35 litres, at Manappakkam. They were remanded by the Judicial Magistrate No.II, Poonamallee. In this connection, the petitioner's father was placed under



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suspension from service with effect from 14/8/1989, as per sub-Rule e (1)

(ii) of Rule 3 of TNPSS (D & A) Rules, 1955 in D.O.No.1687/89 in C.No.G3/054476/89 dated 16/8/1989 by the Superintendent of Police, Chennai Anna East District, St.Thomas Mount, Chennai.

6. It is further stated that the criminal case registered against the petitioner's father in St.Thomas Mount Police Station in Crime No.1083/1989 under Section 4 (1) (a) of TNP Act was subsequently closed and further investigation was stopped. Consequently, on the closure of the criminal case, petitioner's father was released from suspension w.e.f 10/10/1990 as per D.O.No.2291/90 in G3/74711/89 dated 10/10/1990 and was taken back to duty.

7. After being released from suspension, father of the petitioner deserted the Police force on 6/8/1992 for more than 21 days and was issued with a charge under Rule 3 (b) in PR 549 of 1992 and was awarded with the punishment of reduction in pay by one stage for one year without cumulative effect by the Superintendent of Police, Chengalpattu East District on 3/7/1993.

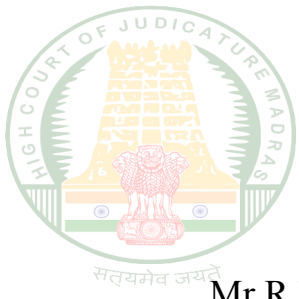


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8. The father of the petitioner again deserted the Police force on 17/8/1993 for more than 21 days and was issued with a charge under Rule 3 (b) in PR No.6 of 1994 and was awarded with the punishment of reduction in pay by one stage for one year with cumulative effect by the Superintendent of Police, Chengalpattu East District on 28/11/1997 and the same was acknowledged by him on 15/12/1997.

9. The father of the petitioner again deserted the Police force on 6/2/1997 for more than 21 days and was issued with a charge under Rule 3 (b) in PR No.241/1997 and was awarded with the punishment of reduction in pay by one stage for one year with cumulative effect by the Superintendent of Police, Chengalpattu East District on 28/11/1997 and the same was acknowledged by him on 15/12/1997. Since, the father of the petitioner was removed from service, the petitioner is not eligible to get pensionary benefits nor appointment on compassionate ground. Hence, prays for dismissal of the writ petition.



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10. Heard Ms.S.Mahadevi, learned counsel for the petitioner and Mr.R.U.Dinesh Rajkumar, learned Additional Government Pleader for the respondents.

11. The learned counsel appearing for the petitioner would submit that if a Government servant disappears, leaving behind his family, the family of the Government servant shall be entitled to the payment of salary dues, leave encashment and other terminal benefits upon his presumed death on expiry of 7 years from the date of the person's disappearance. Taking into consideration all these aspects, the petitioner prays for compassionate appointment on humanitarian ground and settlement of all terminal benefits.

12. The learned Additional Government Pleader appearing for the respondents would submit that only when a Government servant retired from service on superannuation, voluntarily retired from service, allowed to retire from service on medical invalidation or compulsorily retired from service, they are eligible for pensionary benefits. Additionally, if the Government servant expired while in service, family pension and other pensionary benefits will be settled to the legal heirs of the deceased



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employee. Whereas, the petitioner's father was removed from service through departmental action in PR No.42/1992 by the Superintendent of Police, Chengalpattu East District on 7/8/1998. In such a backdrop, the petitioner is not entitled for compassionate appointment nor terminal benefits of his father.

13. Perused the materials available on record.

14. It is relevant to extract 49 – A of the Tamil Nadu Pension Rules, 1978, which runs as follows:-

“Benefits to the family of a disappearing Government Servants:- When a Government servant disappears leaving his family, the family of such Government servant shall be entitled immediately for the payment of dues of salary, leave encashment, General Provident Fund and Special Family Pension-cum-Gratuity and after lapse of a period of two years of such



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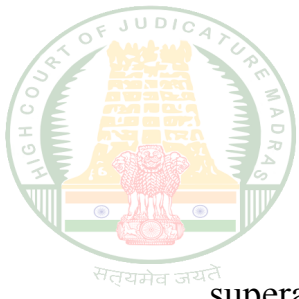


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disappearance, for the payment of dues of Death-cum-Retirement Gratuity and Family Pension in accordance with the nomination made by such Government servant, subject to the following conditions, namely:-

(i). a complaint must have been lodged with the Police Station concerned and a report obtained that the Government servant has not been traced despite all efforts made by the Police and

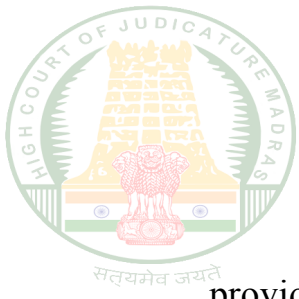
(ii). An Indemnity Bond must have been executed by the nominee or dependants of such Government servant to the effect that all payments shall be adjusted against the payment due to the such Government Servant in case he appears later and makes any claim.”



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15. Only when a Government servant retired from service on superannuation of voluntarily retired from service or allowed to retire from service on medical invalidation or compulsorily retired from service, they are eligible for pensionary benefits, but the petitioner's father was removed from service on 7/8/1998 by the Superintendent of Police, Chengalpattu East District. Hence, the petitioner is not entitled to get pensionary benefits and appointment on compassionate ground.

16. In the counter affidavit, it has been mentioned that the order of punishment of reduction of pay by one stage was acknowledged by the petitioner on 15/12/1997. According to the respondents, father of the petitioner was found missing after receiving the order copy. The petitioner's claim against the respondents has not been considered till date. Though the receipt of order copy by the petitioner's father is claimed, in the absence of any proof of service or acknowledgment to the petitioner, this Court is of the considered view that the alleged proof, without being put to test, cannot be sustained. Therefore, the representation of the petitioner has to be considered by the concerned authorities in the light of the alleged receipt, by providing a copy of the same to the petitioner.



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17. In the above circumstances, the respondents are directed to provide a copy of the alleged receipt to the petitioner within a period of two weeks, so as to enable him to file a fresh representation which shall be done within two weeks thereafter. Upon receipt of the fresh representation, the respondents are directed to consider the representation in the light of the materials available on record and pass appropriate orders on merits and in accordance with law within a period of eight weeks thereafter.

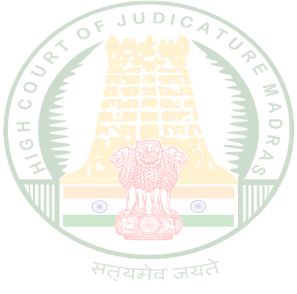
18. With the above direction, this writ petition is disposed of. No costs.

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mvs.

Index: Yes/No

Neutral citation: Yes/No



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