



W.P.No.11741 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.01.2025

WEB COPY

CORAM :
THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

Writ Petition No.11741 of 2023

A.Duraimurugan

... Petitioner

Vs.

1.The Commandant,
TSP II Battalion,
Avadi, Chennai – 54.

2.The Deputy Inspector General of Police,
Armed Police, Chennai – 19.

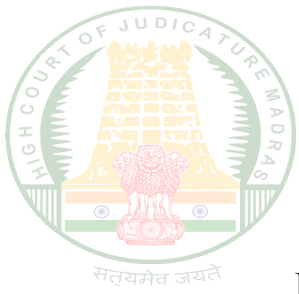
3.The Director General of Police,
Tamil Nadu, Chennai – 4.

4.The Principal Secretary to Government,
Home Department,
Fort St.George, Chennai – 9.

... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, praying for issuance of Writ of Mandamus directing the respondents to treat the period out of employment of the petitioner from 24.08.2010 to 13.04.2022 as duty for all purposes as per the orders of this Hon'ble Court in W.P.No.10845 of 2013 dated 26.06.2018 and also as per Fundamental Rule 54 and grant him all service and monetary benefits including notional promotion and pay fixation at par with his juniors.

Page No.1 of 8



WEB COPY



W.P.No.11741 of 2023

For Petitioner : Mr.K.Venkatramani,
Senior Counsel
for Mr.M.Muthappan

For Respondents 1 to 4 : Mr.M.Rajendiran,
Additional Government Pleader

ORDER

The petitioner has filed this petition to direct the respondents to treat the period out of employment of the petitioner from 24.08.2010 to 13.04.2022 as duty for all purposes as per the orders of this Court in W.P.No.10845 of 2013 dated 26.06.2018 and also as per Fundamental Rule 54 and grant him all service and monetary benefits including notional promotion and pay fixation at par with his juniors.

2. Learned senior counsel for the petitioner would submit that the petitioner was enlisted as a police constable through a selection conducted by Recruitment Board and appointed to service. After institutional training, the petitioner was serving in TSP II Bn. Avadi, Chennai 54. The petitioner was implicated in a criminal case on 23.04.2009, alleging that he was driving a motor cycle TN-20-81-2432 and caused an accident, thereby caused the death



of one Chandru PC 2069. Thereafter, disciplinary proceeding was initiated against the petitioner in PR.No.25/2009 by the first respondent and the petitioner was removed from service on 24.08.2010. Challenging the said order, the petitioner preferred a statutory appeal to the appellate authority and the same was rejected on 22.09.2010. Further, his mercy petition to the HD was also rejected on 04.07.2021.

3. Learned senior counsel for the petitioner would further submit that the petitioner filed writ petition in W.P.No.10845 of 2013 before this Court against the order of punishment of removal from service imposed on him in PR.No.25/2009 dated 24.08.2010 and confirmed by the appellate authority and Head of Dept. The writ petition was allowed on 26.06.2018 and the impugned order passed by the first respondent dated 24.08.2010, the order passed by the second respondent dated 22.09.2010 and the order passed by the third respondent dated 04.07.2011 were all set aside and consequently the respondents were directed to reinstate the petitioner into service.

4. Learned senior counsel for the petitioner would further submit that



W.P.No.11741 of 2023

challenging the aforesaid writ petition, a writ appeal in W.ANo.14345 of 2019 was filed and the same was also dismissed on 05.03.2021. An SLA (C) No.304 of 2022 was filed before the Hon'ble Supreme Court, based on a pending contempt petition, the petitioner was reinstated into service by the first respondent on 13.4.2022. The SLP was heard and dismissed on 22.04.2022. Thereafter, the petitioner made a representation on 10.03.2023 to the Respondents to grant him all service and monetary benefits on account of setting aside of the punishment imposed on him on 24.08.2010 and also in view of the fact that he was not gainfully employed throughout the period of out of employment and that he was entitled to get all the monetary benefits from the date of removal from service till date of reinstatement along with promotion notionally and pay fixation notionally at par with his juniors, who were appointed to service. Due to inaction on behalf of the respondents, the petitioner has come up with the present writ petition.

5. Learned Additional Government Pleader appearing for the respondents submitted a written instruction of Superintendent of Police/Commandant, TSP II Bn, Avadi vide C.No.D2/6893/256/2013, dated

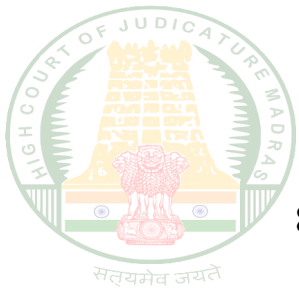


W.P.No.11741 of 2023

28.01.2025, wherein it is stated that during the departmental enquiry in PR.No.25/2009 u/r 3(b) of TNPSS (D&A) Rules, 1955, the charges against the petitioner was held as “proved” and he was awarded with the punishment of “Removal from Service”. Further, he has been taken back duty on 13.04.2022, as per the order of this Court dated 05.03.2021.

6. Learned Additional Government Pleader appearing for the respondents would further submit that the petitioner is acquitted by the Court of IV Metropolitan Magistrate, Saidapet, Chennai-15 in the Criminal Case in Cr.No.205/AM3/2009 u/s 279, 337 and 304(A) IPC on 05.08.2024. Subsequently, the petitioner has submitted a petition dated 14.12.2024 to settle the out of employment period as duty period, which is under consideration and his out of employment period will be settled as per Rule 54 in Fundamental Rules, within a period of three weeks.

7. Heard the learned counsel on either side and perused the materials available on record.



W.P.No.11741 of 2023

WEB COPY

8. In view of the submission made by the learned Additional Government Pleader appearing for the respondents and considering the written instruction of the Superintendent of Police/Commandant, TSP II Bn, Avadi vide C.No.D2/6893/256/2013, dated 28.01.2025, this Court directs the first respondent to consider the petitioner's representation dated 14.12.2024 and to settle all the benefits to the petitioner, within a period of six weeks from the date of receipt of a copy of this order.

9. This writ petition is disposed of with the aforesaid observation and directions. No costs.

29.01.2025

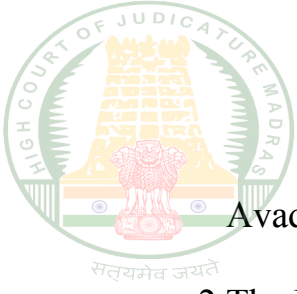
vm

Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes/No

To:

1.The Commandant,
TSP II Battalion,

Page No.6 of 8



W.P.No.11741 of 2023

Avadi, Chennai – 54.

2.The Deputy Inspector General of Police,
Armed Police, Chennai – 19.

3.The Director General of Police,
Tamil Nadu, Chennai – 4.

4.The Principal Secretary to Government,
Home Department,
Fort St.George, Chennai – 9.

J.SATHYA NARAYANA PRASAD,J.

vm



WEB COPY



W.P.No.11741 of 2023

W.P.No.11741 of 2023

29.01.2025