



W.P.No.16098 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.04.2025

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

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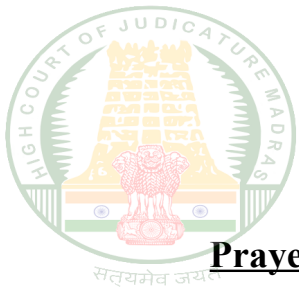
K.R.Bhalaiah

... Petitioner

Vs.

- 1.The State Government of Tamil Nadu through
The Hon'ble Governor of Tamil Nadu,
Secretariat, Fort St.George, Chennai - 9.
- 2.The Secretary to Government,
Home Department,
Government of Tamil Nadu,
Secretariat, Fort St.George, Chennai - 9.
- 3.The Director General of Police,
Police Department,
Government of Tamil Nadu,
Mylapore, Chennai - 4.
- 4.The Accountant General (A&E),
O/o.The Accountant General (A&E),
Chennai -18.
- 5.The Additional Commissioner of Police /
Traffic Zone,
O/o.The Commissioner of Police,
Vepery, Chennai -7.

... Respondents



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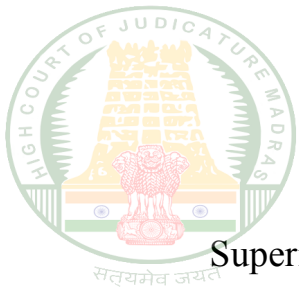
Prayer : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the entire records in connection with the order dated 17.03.2017 in C.No.Tr./pen./163/4934/2017 passed by the fifth respondent and consequently, direct the first respondent to pay all the salary arrears of pay for the post of Deputy Superintendent of Police with effect from 23.05.1995 and further arrears of pay for the post of Additional Superintendent of Police with effect from 22.05.2002 till retirement i.e., on 31.03.2004 with 24% interest per annum and further direct the respondents to revise the pension by fixing it in the post of Additional Superintendent of Police with the accrued arrears.

For Petitioner : Mr.P.Parthiban

For Respondents : Mr.T.Chezhiyan, AGP for RR1 to 3, 5
Mr.P.Manorajan, Standing Counsel for R4

ORDER

This Writ Petition has been filed to call for the entire records in connection with the order dated 17.03.2017 in C.No.Tr./pen./163/4934/2017 passed by the fifth respondent and consequently, direct the first respondent to pay all the salary arrears of pay for the post of Deputy Superintendent of Police with effect from 23.05.1995 and further arrears of pay for the post of Additional



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Superintendent of Police with effect from 22.05.2002 till retirement i.e., on 31.03.2004 with 24% interest per annum and further direct the respondents to revise the pension by fixing it in the post of Additional Superintendent of Police with the accrued arrears.

2. Heard Mr.P.Parthiban, learned counsel for the petitioner, Mr.T.Chezhiyan, learned Additional Government Pleader for RR1 to 3, 5 and Mr.P.Manorajan, learned Standing Counsel for R4 and perused the materials available on record.

3. The petitioner who was serving the police department has been absorbed as Inspector of Police through regular promotion in the year 1982. On 29.11.1983, the petitioner was suspended from service based on the criminal complaint filed against him along with two other officers. The criminal case filed on the basis of the above complaint in S.C.No.70 of 1986 has been ended in favour of the petitioner and the petitioner was acquitted in the said case. In pursuant to that, he was reinstated on 18.11.1987 and thereafter, he was given with the charge memo on



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14.08.1988. However, the above charge memo was cancelled by stating that it was issued by the authority who did not have the jurisdiction and a fresh charge memo was issued on 25.10.1998. The Enquiry Officer filed a report stating that the charges have not been proved against the petitioner. However, the disciplinary authority has taken a different view and punished the petitioner with censure for a period of six months.

3.1. Thereafter, the Director General of Police / third respondent has *suo-moto* taken up the matter for review and enhanced the punishment by reduction of time scale for one year with cumulative effect. The above order has been challenged by the petitioner by way of preferring an Original Application before the Tamil Nadu Administrative Tribunal in O.A.No.3698 of 2003 and the same was allowed on 01.12.2003. In view of the above order, the punishment was set aside and the petitioner was ordered to be given with all service benefits including promotion more specifically arrears of pay. The petitioner has filed an another Original Application in O.A.No.208 of 2004 claiming service benefits like promotion etc. The said Original Application was also



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allowed on 29.01.2004 and a direction was given to the respondents to give promotion to the petitioner with an observation that if promotions are given after the retirement of the petitioner, he is eligible for salary arrears for the promoted post. The petitioner has retired on 31.03.2004.

3.2. On 16.03.2004, when the pension proposal was sent for the petitioner to the fourth respondent, the petitioner's post was referred as Inspector of Police and the pension proposal had also indicated the salary drawn by the petitioner in the cadre of Inspector. However, subsequent to the retirement of the petitioner, two Government Orders have been given in G.O.Ms.No.514 dated 30.03.2004, for including the petitioner's name in the panel of Deputy Superintendent of Police for the promotion year 1994-95 and G.O.Ms.No.515 dated 31.03.2004, including the petitioner's name in the panel of Additional Superintendent of Police for the year 2001-02. The said Government Orders have been communicated to the petitioner.



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3.3. The petitioner filed an Original Application in O.A.No.1519 of 2004 before the Tribunal on 08.04.2004 to settle his arrears. The Original Application was closed by giving liberty to the petitioner to file a Writ Petition before the High Court. In the meanwhile, the Government has filed an appeal challenging the orders to set aside the punishment imposed against the petitioner in W.P.No.6632 of 2006 and the same was also dismissed on 22.03.2005. Now the petitioner claims that there is no punishment pending against him and the pension proposal sent by the fifth respondent is wrong and he is entitled to the arrears of salary for the promotion to the post of Deputy Superintendent of Police and Additional Superintendent of Police.

4. The learned Additional Government Pleader for the respondents 1 to 3 and 5 submitted that the pension proposal has been rightly sent to the Government and the petitioner is not entitled to any any arrears of salary for the promotional post.



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5. The order passed in O.A.No.3698 of 2003 was challenged by the respondents by way of preferring a Writ Petition in W.P.No.6632 of 2006 and the same was dismissed. That would only mean that the order passed to set aside the punishment imposed against the petitioner was confirmed and it had even attained finality. The order passed by the Tribunal in the subsequent O.A.No.208 of 2004 would come to rescue of the petitioner in respect of his service benefits *viz.*, promotion and arrears of pay. Even though the pension proposal has been sent to the fourth respondent before the retirement of the petitioner by mentioning his post as Inspector of Police, subsequently two Government Orders have been passed by including the petitioner's name for the promotion panels for the posts of Deputy Superintendent of Police and Additional Superintendent of Police for the years 1994-95 and 2001-02.

6. When the order of the Tribunal made in O.A.No.208 of 2004 is very clear as to the grant of promotion to the petitioner in the post of Deputy Superintendent of Police and Additional Superintendent of Police



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for the promotion years 1994-95 and 2001-02, there cannot be any doubt in the mind of the respondents to give promotion to the petitioner for the said posts for the promotion panel years 1994-95 and 2001-02. In such case, when the pension proposal was sent, the respondents ought to have done their calculation for arriving at the last pay drawn by the petitioner for the purpose of pension, without including the punishment of stoppage of pay for one year with cumulative effect. In other words, when the punishment was set aside, it is unnecessary for the respondents to include the same while sending the salary details of the petitioner to the fourth respondent.

7. Since the petitioner's name has been included in the promotion panel for the post of Deputy Superintendent of Police and Additional Superintendent of Police, post retirement of the petitioner, the respondents ought to have paid the salary arrears to the petitioner from the date on which the petitioner is entitled to promotion on par with his juniors and as directed by the Tribunal. Despite there is no difficulty in interpreting the orders passed by the Tribunal, some reluctance is seen to



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be present on the side of the respondents in complying the order. Even if such orders are given, they can only have notional effect since the petitioner has already retired from service. The Tribunal has made it clear in its order dated 29.01.2004 in O.A.No.208 of 2004 that the petitioner is entitled to the arrears of pay on promotion subsequent to his retirement. As the order of the Tribunal has not been complied by taking the order in its true letter and spirit, the petitioner has filed this Writ Petition. In view of the above stated reasons, the respondents have to be given with a suitable direction.

8. In the result, this **Writ Petition is allowed** and the impugned order dated 17.03.2017 passed in C.No.Tr./pen./163/4934/2017 by the fifth respondent is set aside and the respondents are directed to pay all the salary arrears to the petitioner for the post of Deputy Superintendent of Police with effect from 23.05.1995 and further arrears of pay for the post of Additional Superintendent of Police with effect from 22.05.2002 till retirement i.e., on 31.03.2004 with 5% interest per annum and revise the pension by fixing it in the post of Additional Superintendent of Police



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and pass appropriate orders in this regard within a period of **six weeks**
from the date of receipt of a copy of this order. No costs.

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Index : Yes /No
Speaking / Non-speaking
Neutral Citation : Yes / No
gsk

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R.N.MANJULA, J.

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