



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30-06-2025

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**THE HONOURABLE MRS JUSTICE J. NISHA BANU
AND
THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN**

WA No. 2224 of 2022

1. The Union of India
Rep by its Secretary to Government
Ministry of Home Affairs, New Delhi
2. The Director of General,
Central Industrial Security Force,
Head Quarters, CGO Complex,
Lodhi Road, New Delhi-110 003
3. The Inspector General
Training Sector,
Central Industrial Security Force, National
Industrial Academy, Hakimpet, Hyderabad
-78
4. The Deputy Inspector General
Central Industrial Security Force,
South Zone Head Quarters,
Besant Nagar, Chennai-600 090
5. The Principal/Deputy Inspector General
Central Industrial Security Force, Regional
Tranining Center, Suraksha Campus,
Arakkonam, Vellore District,
Tamil Nadu-631 152



6. The Assistant Commandant/Trg
Central Industrial Security Force unit,
Regional Training Center, Surakasha
Campus Arakkonam, Vellore District,
TamilNadu-631 152

Appellant(s)

Vs

1. R.Thiyagarajan
SI/Exe No.994850540,Head Quarters,
Coy Central Industrial Security Force,
RTC, Arakkonam Vellore Dt,
TamilNadu.

2.The Secretary
Bar Council Of Tamilnadu And
Puducherry. (impleaded the 2nd
Respondent, Vide Court Order Dated
29.9.2022 made in Cmp No.167512 of
2022 in WA No.2224 of 2022)

Respondent(s)

PRAYER Writ Appeal filed under Clause 15 of Letter Patent to allow the writ appeal and set aside the order dated 07.07.2022 passed by this court in W.P.NO. 17269 of 2018.

For Appellant(s): K. Srinivasa Murthy

For Respondent(s): S.T.Varadarajalu, For R1

JUDGMENT

(Order of the Court was made by J.Nisha Banu J.)

This Writ appeal has been filed to set aside the order dated 07.07.2022 passed by this court in W.P.NO. 17269 of 2018.



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2. The first respondent herein filed the above W.P.No.17269 of 2018 before this court seeking to quash the order passed by the Principal/Deputy Inspector General, Central Industrial Security Department dated 17.03.2018 and also the order passed by the appellate authority dated 04.05.2018, confirming the above said order dated 17.03.2019, in so far as the portion of the order with regard to back wages and consequently direct the respondents to pay back wages to him from 09.01.2012 to 28.03.2018, considering his representation dated 23.04.2018.

3. The said writ petition was disposed of by this court on 07.07.2022 by passing the following order.

" The impugned order to the extent of denying the benefit of back wages to the petitioner is set aside. As a sequel, there shall be a direction to the respondent to calculate the back wages payable to the petitioner for the non-working period and such amount with 6% interest shall be deposited to the Bar Council for Tamil Nadu and Puducherry. The Bar Council of Tamil Nadu and Puducherry on receipt of such amount shall utilize the same for the welfare of young and needy lawyers. The gesture shown by the petitioner, who was also present before this court is to be appreciated.

The needful as indicated above shall be undertaken by the respondents within a period of six (6) weeks from the date of receipt of a copy of this order.

Since the Bar Council of Tamil Nadu and Puducherry is not a party to the lis, the copy of this order shall be marked to the Secretary to the Bar Council of Tamil Nadu and Puducherry."



Challenging the above said order, the instant appeal has been filed by the Department.

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4. Heard the learned counsel for the appellants and the learned counsel appearing for the respondents.

5. A perusal of the records show that initially, the first respondent was appointed as Constable on 01.08.1999 and subsequently, he was selected and appointed as Sub Inspector of Police, by order dated 08.10.2011. However, during the training period itself, he was terminated by the appellants on 09.01.2012. As against the above termination order, the first respondent filed a writ petition in W.P.(MD) No.817 of 2012 and the same was allowed on 20.09.2017, by directing the appellants to reinstate the first respondent as Sub Inspector, within a period of two months from the date of receipt of copy of the order. The said order was challenged by the department/ appellant herein in W.A.No.307 of 2018, and the same was dismissed by a Division Bench of this Court, vide judgment dated 07.02.2018, confirming the order passed by the writ court.

6. Pursuant to the said orders, the appellants herein, reinstated the first respondent in service, vide order dated 17.03.2018, ***without any back wages on the ground of "no work no pay"***. The said order was challenged by the first



respondent before the appellate authority, however, it was decided against him stating that no specific direction was issued by the Hon'ble High Court of Madras in the judgment for payment of back wages and hence, he is not entitled to claim the back wages and other benefits. Aggrieved by the said orders, the first respondent filed a writ petition in W.P.No.17269 of 2018 before this court and it was allowed on 07.07.2022 as stated supra. The said order is impugned herein in this intra court appeal.

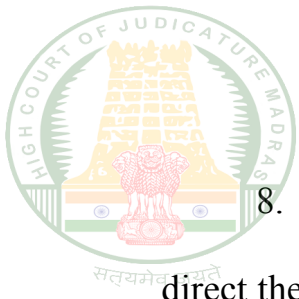
7. In the present appeal, the appellants raised the following grounds.

i) In the earlier proceedings relating to the termination of the first respondent/writ petitioner, this court did not specifically direct the department to pay back wages (salary), which deemed to have been rejected. Therefore, the CISF authority had reinstated the writ petitioner without back wages on the principles of "No work no pay".

ii) If the writ petitioner is aggrieved by the order of the writ court in not granting payment of back wages, he ought to have filed appeal against the said order and it is not open to the writ petitioner to file another writ petition, seeking back wages.

iii) The writ petitioner had underwent full time law course during the years 2013 to 2016 at V.R.Law College, Nellore (Andhra Pradesh) and he enrolled as an advocate in the Bar Council of Tamilnadu and Puducherry on 24.12.2016 and was practising law. Only after his reinstatement into service on 17.03.2018, the writ petitioner was suspended from his practise on 27.03.2018.

iv) The grant of back wages cannot be automatic, more particularly on the facts and circumstances of the case and hence, the learned Judge ought to have dismissed the writ petition.

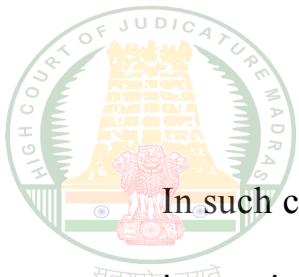


8. It is contended by the appellant that this court did not specifically direct the department to pay back wages (salary) and hence, it is construed that the claim of back wages have been rejected. However, in the orders of the Writ Court as well Division Bench, there was no specific denial with regard to the back wages. In this regard, the learned Single Judge observed as follows.

22. Insofar as the contention raised by the respondents that the writ court has only allowed the writ petition with regard to reinstatement and not another relief as sought for by the petitioner is concerned, the law is well settled in this regard that, whenever a workman or employee approaches the court, *where the removal of service ordered against such worker or employee is found to be unlawful and as a sequel, reinstatement is ordered, it is an automatic exercise, where, the employee or worker is entitled to get the back wages for the non-working period unless and until the employer or management is able to prove that during the non working period, the employee or worker had worked for gain elsewhere.*

23. Catena of judgment have come in support of this legal proposition and the lead judgment is the case of Deepali Gundu Surwase Vs. Kranti Junior Adhyapak Mahavidyalaya [(2013) 10 SCC 324]. Following the judgment, similar issues had been decided in number of cases by the law courts.

24. More over, the learned Single Judge has found that the termination was unlawful and directed to reinstate the petitioner. Once the termination found to be unlawful one, the following relief of back wages is also attached with the reinstatement order unless and until that is specifically denied by the court. Here, neither in the order of the writ court nor in the order of the Division Bench, such specific denial of back wages has been mentioned.



In such circumstances the contention of the appellants that if the writ petitioner is aggrieved by the order of the writ court in not granting payment of back wages, he ought to have filed appeal, cannot be accepted.

9. It is the another ground of the appellant that the respondent/writ petitioner had underwent full time law course during the years 2013 to 2016 at V.R. Law College, Nellore (Andhra Pradesh) and he enrolled as an advocate in the Bar Council of Tamilnadu and Puducherry on 24.12.2016 and was practising law, till he suspended his practice on 27.03.2018. Hence, he is not entitled to back wages from the year 2013 to 2018. However, the learned Judge, denied the back wages only for the period from 24.12.2016 to 27.03.2018 and granted for the remaining period.

10. Admittedly, the first respondent was terminated from service as early as on 09.01.2012 and the termination order was set aside by this court in W.P.No.817 of 2012, vide order dated 20.09.2017 and it was also confirmed by the Division Bench of this court in W.A.No.307 of 2018, vide order dated 07.02.2018. It is to be noted that in the above said W.P.No.817 of 2012, the learned Single Judge found that the termination was unlawful and directed the appellants to reinstate the first respondent. Therefore, the learned Single Judge, in the instant impugned order (in W.P.No.17269 of 2018) has rightly observed



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that once the termination found to be unlawful one, the following relief of back wages is also attached with the reinstatement order, unless and until it was specifically denied by the court. Since there was no such specific denial by the writ court (in W.P.No.817 of 2012) or Division Bench (in W.A.No.307 of 2018) with regard to the payment of back wages, the learned single Judge has granted the back wages for the termination period, except the period from 24.12.2016 to 27.03.2019 as stated supra. At this juncture, it is necessary to extract the relevant portion of the discussion made by the learned Single Judge, which read as follows:

33. In the resultant situation, the petitioner is entitled to succeed in this case to get back wages for the non working period. However, since the petitioner, after having completed the law degree has enrolled himself in the Tamil Nadu Bar Council on 24.12.2016 and till 27.03.2018, he had been in the roll of law practitioners, for the said period, i.e. between 24.12.2016 and 27.03.2018, the petitioner is not entitled for any such back wages. ***However, for the remaining period, the petitioner is entitled to get the back wages***, therefore, to that extent the order impugned, rejecting the plea of the petitioner to get the back wages for non working period is liable to be set aside and accordingly it is set aside.

11. A perusal of the materials shows that the first respondent, after some time from his reinstatement, had retired from service on voluntary retirement with effect from 19.11.2019 and he was relieved from duty on 19.11.2019 by the authorities concerned. Further, the first respondent/writ petitioner, before



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the writ court, had voluntarily come forward to forego the back wages for which, he is entitled to during the non-working period, except the legal practitioner period from 24.12.2016 to 27.03.2018, however, he wants the money to be utilized for the welfare of legal fraternity. Therefore, after considering his submissions and also taking into account the offer made by him, the learned Single Judge has rightly directed the respondents to deposit the back wages along with 6% interest to the Bar Council for Tamil Nadu and Puducherry and on such deposit, the Bar Council shall utilize the said amount for the welfare of young and needy lawyers.

12. Thus, we are of the view that the writ court, after considering all the facts and circumstances and also discussing the matter in detail has decided the issues and passed the order as stated supra. Hence, we did not find any illegality or infirmity to interfere with the same.

13. Accordingly, this writ appeal is dismissed. There shall be no order as to costs. Connected miscellaneous petition is closed.

(J.NISHA BANU J.) (M.JOTHIRAMAN J.)
30-06-2025

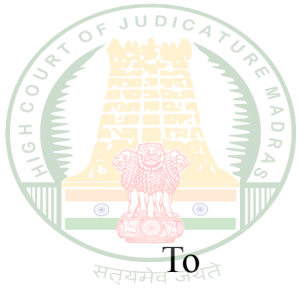
mst

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No



To

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1.R.Thiyagarajan

SI/Exe No.994850540,Head Quarters,
Coy Central Industrial Security Force,
RTC, Arakkonam Vellore Dt,
TamilNadu.

2.The Secretary

Bar Council Of Tamilnadu And
Puducherry.



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W.A No. 2224 of 2



**J.NISHA BANU J.
AND
M.JOTHIRAMAN J.**

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