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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.03.2025

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THE HON'BLE MR. JUSTICE **C.V.KARTHIKEYAN**

W.P.No.36363 of 2024
and W.M.P.No.39239 of 2024

Mr.M.Arul

.. Petitioner

Vs.

1.The Commissioner of Police,
Greater Chennai Police,
O/o. Commissioner of Police,
Vepery,
Chennai – 600 007.

2.The Additional Commissioner of Police,
Traffic Zone,
Greater Chennai Police,
O/o. Commissioner of Police,
Vepery,
Chennai – 600 007.

3.The Administrative Officer,
Establishment,
Greater Chennai Police,
O/o. Commissioner of Police,
Vepery,
Chennai – 600 007.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India
praying to issue a Writ of Certiorarified Mandamus, calling for the records



pertaining to Impugned order passed by the 1st respondent in ENDORSEMENT NO. Esst. V(1) / 55432/ 2024, dated 12.09.2024 and to quash the same and consequently grand order of direction, directing the respondent to grant order of local lien and Retention of Armed Reserve Promotion Regular order to the petitioner to be included in the 'C' list of SSI's Promotion Order (AR) and COUNTER ORDER 2018.

For Petitioner .. Mr.M.Vivekanandan

For Respondents .. Mr.S.Yashwanth,
Additional Government Pleader.

ORDER

This Writ Petition has been filed in the nature of a Certiorarified Mandamus seeking records relating to an order passed by the 1st respondent, the Commissioner of Police, Greater Chennai Corporation at Veppery Chennai in ENDORSEMENT No. Esst. V(1)/55432/2024 dated 12.09.2024 and to quash the same and grant an order directing the respondents to grant local lien and retention in Armed Reserve Promotion Regular Order to the petitioner. The petitioner claims that he should be included in the 'C' list of SSI promotion under order (AR) and Counter Order 2018.



2. In the affidavit filed in support of the writ petition, it had been stated that the petitioner had joined Police Department as Gr-II, Police Constable on 25.10.1993. He was suspended from service by an order dated 11.08.2005 passed by the Inspector General of Police (Operations) Chennai, on the allegation that he was involved in the question paper leakage for the examination conducted for the recruitment of Police Constable on 27.03.2005. The Investigation was taken over by the CBI and FIR was also registered. Finally, after conclusion of investigation, a final report was laid before the jurisdictional Court, but the petitioner was not arrayed as an accused.

3. Pending investigation by the CBI, a charge memo was issued to the petitioner on 22.08.2005. The petitioner then filed W.P.No.8917 of 2007. The charge memo, however, was proceeded with and consequent to the interim stay being vacated, the 1st respondent / Commissioner of Police had awarded punishment of withholding the next increment for two years without cumulative effect.



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4. Thereafter, the petitioner had filed W.P.No.43946 of 2016 seeking interference with that particular order and the successive orders passed confirming the said punishment. A learned Single Judge of this Court had allowed the writ petition by order dated 12.07.2021. In that particular order, the learned Single Judge had stated that, if the petitioner gives a representation seeking his service and monetary benefits which would have accrued to him and had not been paid, consequent to place him under suspension and during the period when he faced the charge, the respondents must consider such representation and pass appropriate orders. That order of the learned Single was taken up in the appeal by the respondents in W.A.No.1180 of 2022. The writ appeal came to be dismissed by a judgment dated 03.01.2023.

5. The petitioner then continued to work in the local police. He then gave a representation on 24.06.2024 seeking to be called back to the Armed Reserve Unit. He claimed that he had a lien over the service in that particular unit. In that particular representation, interestingly, he had placed as reference, a communication which he had not directly received, but probably, he had obtained through contacts which he had established in the



police force. That particular communication is dated 09.01.2009 and was an order of the Commissioner of Police with respect to a representation received from 11 separate police personnel who similarly sought repatriation to the Armed Reserve Unit from the local unit. An order was passed, but the order was with conditions. It was stated that the order transferring the said 11 personnel would not come into effect, if anyone of them were under going punishment owing to various reasons, but the order was also explicit that they could be transferred to the AR unit and that they would be placed as the junior most in their batch, in that unit.

6.The learned counsel pointed out that this particular communication was not served on the petitioner, and stated that the petitioner's request was not considered since the petitioner was facing charges and had actually suffered punishment at the hands of the respondents, which of course was set aside by the learned Single Judge and which order was confirmed by the Division Bench. On the representation given by the petitioner, an order was passed on 12.09.2024 which is impugned in the present writ petition.

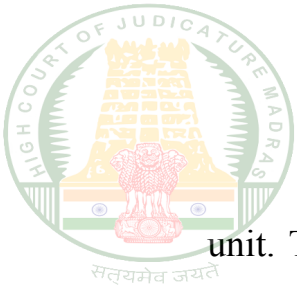


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7. In the order impugned, reference was made to the earlier order, reference of which had been made by the petitioner dated 09.01.2009 and it was explained that those 11 police personnels were repatriated to their original unit only after obtaining undertaking by them and that it was a stand alone consideration of that request. That particular undertaking would be that they undertook to be placed as junior most in their batch. If the respondents were to accede to the consent of the petitioner and repatriate him back to the AR unit, they cannot place him as junior most, since he is protected by the order of the learned Single Judge that he should be extended with all monetary service benefits.

8. The petitioner, therefore, seeks all service benefits namely, to be repatriated to the AR unit, which was not specifically granted in the order of the writ petition and also to be granted with seniority in that particular unit.

9. Unfortunately, I am not able to concede to grant this particular request made. If the petitioner wants to go back to AR unit, he must give an undertaking that he would be placed as junior most in that particular unit. As a matter of fact, he cannot have a right claim to be repatriated to the AR



unit. The learned Single Judge or the Division Bench had not granted him that particular relief. If ever he seeks that relief, this separate writ petition is not maintainable and he should have obtained that particular relief in the earlier writ petition. Having consciously given up that particular relief in the earlier round of litigation, he cannot reopen the said issue and seek this Court to pass an order in that regard.

10. The petitioner being a member of the uniformed service should be disciplined enough and be ready to be posted in any unit either in the local police or in the AR unit. He cannot opt for a unit of his comfort and claim the same as a matter of right. If he is not satisfied with service in the local unit, he has a wonderful option namely, to resign the job and walk away. If the petitioner resigns and walk away, the police force is not going to collapse. The police force is not dependent on the petitioner's services. It is for him to render service for the good of the public and render such service in whatever unit he is posted. If he wants to pick and chose the particular place where he wants to work and that option is not available, he can very well walk away from the police force and do whatever he wants. But the request, that he should be repatriated cannot be granted and is rejected.



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No costs. Consequently, connected Writ Miscellaneous Petition is closed.

07.03.2025

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Index: Yes/No

Internet: Yes/No

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C.V.KARTHIKEYAN,J.

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