



W.P.No.28507 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.02.2025

CORAM

**THE HONOURABLE Ms.JUSTICE R.N.MANJULA**

W.P.No.28507 of 2018

S.Palanisamy

... Petitioner

Vs.

1. The Director General of Police,  
Tamil Nadu, Chennai – 600 004.

2. The Deputy Commissioner of Police,  
Law and Order, Salem City,  
Salem.

3. The Commissioner of Police,  
Salem City,  
Salem.

... Respondents

**PRAYER:** Writ Petition is filed under Article 226 of the Constitution of India for issuance of Writ of certiorarified mandamus to call for the records relating to the orders in (i) Pro.RC.No.187525/AP.2(2)/2017 dated 03.03.2018 of the first respondent (ii) F.Order PR No.50/H1/2010 dated 13.04.2013 of the second respondent and to quash the same and to issue consequential directions to the respondents to restore the increment withheld, regularize the period of suspension as duty and disburse all consequential service and monetary benefits.

For Petitioner : Mr.M.Ravi



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For Respondents : Mr.P.Anandhakumar  
Government Advocate

**ORDER**

The petitioner has filed this writ petition challenging the orders passed by the first respondent in Pro.RC.No.187525/AP.2(2)/2017 dated 03.03.2018 and order of the second respondent in F.Order PR No.50/H1/2010 dated 13.04.2013 and consequently issue directions to the respondents to restore the increment withheld, regularize the period of suspension as duty and disburse all consequential service and monetary benefits.

2. The petitioner who was working as a Head Constable in the Salem City Police Station has been subjected to departmental proceedings in view of a criminal complaint pending against him on the complaint filed by his wife in Cr.No.9/2010 under Section 498A, 324 IPC, before the All Women Police Station, Sooramangalam. The petitioner who was tried before the Judicial Magistrate-II, Salem, was acquitted in the criminal case through the judgment dated 28.03.2011 in C.C.No.188/2010 on the finding that the petitioner was not guilty. However, in the departmental proceedings held, the petitioner was found guilty for the charges levelled against him and he was imposed with the punishment of postponement of increment for three years without cumulative effect through order of the third respondent dated 13.04.2013. The review



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petition filed by the petitioner before the second respondent also got dismissed

by confirming the order of the appellate authority. The petition given by the petitioner to the first respondent on 18.11.2017 was also rejected on 03.03.2018.

3. Mr.M.Ravi, the learned counsel for the petitioner, submitted that the wife who was the *de facto* complainant in the criminal case has stated that she was not beaten up by her husband and on that score the petitioner was acquitted from the criminal case; despite the petitioner was acquitted from the criminal case, in the departmental action he was found guilty by misconduct and he has been imposed with severe punishment of stoppage of three years increment without cumulative effect and hence the impugned order should be set aside.

4. Mr.P.Anandhakumar, the learned Government Advocate for the respondents submitted that even in the affidavit of the petitioner it is stated that during the wordy quarrel between himself and his wife, the wife accidentally fell down and she suffered injuries near her eyebrows and lips and she was admitted in the hospital for treatment. He further stated that the wife had mistakenly given the complaint to the police as though she was assaulted by him and signed the complaint without reading the contents. As the injuries



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sustained by the wife has been clearly established by medical evidence, the acquittal of the petitioner is not an honourable one and hence no consideration needs to be given to the factum of acquittal.

5. It is learnt that the petitioner got an order of acquittal in the criminal case because the *de facto* complainant did not support the case of the prosecution and turned hostile. It is not difficult to presume that to save the matrimonial life, the complainant wife would not have come forward to depose evidence in the criminal proceedings against the petitioner by supporting the prosecution. The standard of proof required for criminal proceedings and the disciplinary proceedings are different and same yardstick cannot be applied to the disciplinary action. Despite the petitioner was found guilty for misconduct as early as in the year 2013 and he has exhausted all the departmental appellate remedy by way of giving representation to various authorities, he has all of a sudden filed this writ petition in the year 2018. The petitioner has given a representation to the first respondent after five years and it got rejected.

6. The petitioner had stated that he is living happily with his wife now. But that cannot be the reason to interfere with the punishment imposed on him



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in the disciplinary proceedings. In fact the petitioner's wife was treated in the hospital and the medical evidence has also been considered during the disciplinary proceedings. It cannot be said that the findings of guilt has been recorded against the petitioner without giving him any reasonable opportunity and that the order has been passed unmindful of the materials produced during the enquiry.

7. It is learnt that for the charge memo given to the petitioner, he did not give any explanation and did not appear for inquiry. If the petitioner did not make use of the opportunity given to him during the departmental proceedings, the first respondent cannot be prevented from proceeding further on the basis of the evidence available on record. Just because the petitioner was acquitted from criminal case and that too on the basis that the *de facto* complainant had turned hostile, the petitioner cannot claim as though he has got an honourable acquittal in the criminal case.

8. As such there is no ground to interfere with the orders passed by the first respondent authority in recording the finding of the guilt against the petitioner for the allegations of misconduct. However, it is seen that stoppage of three years increment for the charges made against him appears to be a bit



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severe. Hence, I feel some indulgence can be shown in reducing the quantum of punishment of stoppage of three years increment without cumulative effect to stoppage of two years increment without cumulative effect.

9. In the result, the writ petition is partly allowed and the order passed by the second respondent in F.Order PR No.50/H1/2010 dated 13.04.2013 is modified only to the extent that the punishment of stoppage of three years increment without cumulative effect is reduced to stoppage of two years increment without cumulative effect and on the rest of the aspects, the writ petition is dismissed . No costs.

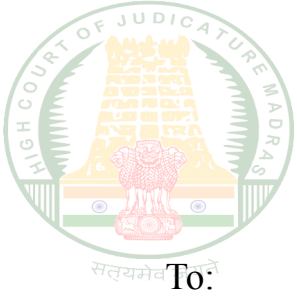
**05.02.2025**

Index : Yes/No

Neutral citation : Yes/No

Speaking Order/Non-Speaking Order

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To:

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**R.N.MANJULA, J.**

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