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W.P.(MD) No.5725 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.11.2025

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.(MD) No.5725 of 2021

R.Sankaranarayanan

... Petitioner

-vs-

1.The Director General of Police
Mylapore, Chennai-4

2.The Deputy Inspector General of Police
Tirunelveli Range, Tirunelveli

3.The Superintendent of Police
Thoothukudi District, Thoothukudi

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus calling for the records relating to the impugned order passed by the 3rd respondent in C.No.F1/PR.No.19/2004 dated 04.11.2020 and quash the same and consequently direct the respondents to pay the arrears salary and other allowances to the petitioner for Medical Leave period from 30.09.2003 to 27.11.2003 and for the suspension period from 09.01.2004 to 25.07.2007 with interest.



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For Petitioner : Mr.Xavier Rajini
for Mr.AR.Jeyarhuthran

For Respondents : Mr.A.Baskaran
Additional Government Pleader

ORDER

This writ petition has been filed challenging the impugned order dated 04.11.2020, passed by the third respondent, rejecting the petitioner's request to pay arrears of salary and other allowances to him for the medical leave period from 30.09.2003 to 27.11.2003 and for the suspension period from 09.01.2004 to 25.07.2007.

2. The impugned order has been passed rejecting the petitioner's request, on the grounds that the petitioner has not been fully exonerated from the departmental proceedings and the punishment order was cancelled in the mercy petition by the Director General of Police only by considering his 33 years of service.

3. Learned counsel for the petitioner submits that since the petitioner has been acquitted in the criminal case, which was one of the



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reasons for framing of charges against him in the departmental proceedings, the suspension period from 09.01.2004 to 25.07.2007 has to be treated as duty period and the petitioner should be paid arrears of salary and other allowances for the said period.

4. Learned counsel for the petitioner drew the attention of this Court to F.R.54-B-9(b) of the Fundamental Rules of the Tamil Nadu Government and would submit that as per the said Rule, since the petitioner has been acquitted in the criminal case, his suspension period has to be treated as duty period.

5. Learned counsel for the petitioner also drew the attention of this Court F.R.54-B-1(3) of the Fundamental Rules of the Tamil Nadu Government and would submit that the petitioner has been reinstated into service pursuant to the orders passed by the Director General of Police in the mercy petition and the suspension order passed against him earlier is deemed to have been revoked and therefore, he is entitled to claim arrears of salary for his suspension period from 09.01.2004 to 25.07.2007.



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6. A counter affidavit has been filed by the respondents before this Court. In the counter affidavit, they would contend as follows:

- (a) The petitioner was never fully exonerated in the departmental proceedings. Only in the mercy petition filed by the petitioner, the Director General of Police, after giving due consideration to the 33 years of service put by the petitioner, has cancelled the punishment order.
- (b) The petitioner had absented himself from duty for a long period and he was treated as a deserter and he was also involved in a dowry harassment case, which resulted in a criminal case registered against him.
- (c) Only by taking a lenient view in the mercy petition filed by the petitioner, on account of the fact that the petitioner has put in 33 years of service, the Director General of Police cancelled the punishment order. In fact, the petitioner's



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desertion period and suspension period were settled as eligible leave, including extraordinary leave to the extent necessary, through the order of the respondents dated 20.08.2008 as per F.R.54-B of the Fundamental Rules.

7. Learned Additional Government Pleader appearing for the respondents, apart from reiterating the contents of the counter filed by the respondents, would also submit that this writ petition is hit by laches. The petitioner retired from service on 31.07.2013, but, he made a representation for the relief sought for in this writ petition only on 21.10.2020, which came to be rejected under the impugned order. Therefore, according to him, since the representation was made by the petitioner only after a period of seven years from the date of his retirement, this writ petition is hit by laches.

8. F.R.54-B-9(b) of the Fundamental Rules of the Tamil Nadu Government, which the learned counsel for the petitioner relies upon, reads as under:

“(b) dismissed or removed from service or compulsorily retired on the ground of conduct which has



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led to his conviction on a criminal charge and the Government servant is subsequently reinstated in service on his acquittal by the Court either on merits or on the ground that the charge has not been proved against him or by giving benefit of doubt or on any other technical ground, or on the ground that he has been pardoned by the Court as he turned approver based on his judicial confession, he must be regarded as having been prevented from discharging his duties and the period of his absence including the period of suspension shall be treated as duty for all purposes and he shall be paid full pay and allowances which he would have been entitled to, had he not been under suspension, or dismissed or removed or compulsorily retired from service. ”

9. As seen from the aforesaid Rule, it is clear that the said Rule is applicable only to the cases where the charges in the departmental proceedings and the charges in the criminal proceedings are one and the same. In the case on hand, the departmental proceedings initiated against the petitioner and the criminal case registered against him are different. Based on the complaint given by the daughter-in-law of the petitioner, a criminal case was registered against him, which ended in acquittal by the Criminal Court.



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However, in the departmental proceedings initiated against the petitioner, only due to the pendency of the criminal case as well as the unauthorized absence of the petitioner, he was prosecuted. Therefore, this Court is of the considered view that F.R.54-B-9(b) of the Fundamental Rules of the Tamil Nadu Government will not apply to the case of the petitioner.

10. Learned counsel for the petitioner also relied upon F.R.54-B-1(3) of the Fundamental Rules of the Tamil Nadu Government, which reads as follows:

“(3) Where the authority competent to order reinstatement is of the opinion that the suspension was wholly unjustified, the Government servant shall, subject to the provisions of sub-rule (8), be paid the full pay and allowances to which he would have been entitled, had he not been suspended:

Provided that where such authority is of the opinion that the termination of the proceedings instituted against the Government servant had been delayed due to reasons directly attributable to the Government servant, it may, after giving him an opportunity to make his representation within sixty days from the date on which the communication in this regard is served on him) and after considering the representation, if any, submitted by him,



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direct, for reasons to be recorded in writing, that the Government servant shall be paid for the period of such delay only such amount (not being the whole) of such pay and allowances as it may determine.”

11. While ordering reinstatement of the petitioner into service pursuant to the orders of the Director General of Police in the mercy petition filed by the petitioner cancelling the punishment order, the competent authority has not passed any order that the earlier suspension order issued to the petitioner was unjustified. In fact, the third respondent, through his proceedings dated 20.10.2008, has held the desertion period and the suspension period as eligible leave in accordance with F.R.54-B of the Fundamental Rules of the Tamil Nadu Government. The petitioner also did not choose to challenge the said order dated 20.10.2008. Only in the mercy petition, after considering the 33 years of long service put by the petitioner, the Director General of Police, without going into the merits of the punishment order passed against him, has cancelled the punishment order exercising his powers available to him in the mercy petition. Therefore, the reliance placed by the learned counsel for the petitioner on F.R.54-B-1(3) of the Fundamental Rules of the Tamil Nadu Government has no relevance for the facts of the



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instant case.

12. As rightly contended by the learned Additional Government Pleader appearing for the respondents, this Court is of the considered view that this writ petition is also hit by laches. The petitioner retired from service in the year 2013 itself, but, he chose to make his first representation to the respondents seeking to treat the suspension period from 09.01.2004 to 25.07.2007 and requesting the respondents to pay arrears of salary and other allowances to him for the medical leave period from 30.09.2003 to 27.11.2003 only in the year 2020. The said representation of the year 2020 has been rightly rejected by the third respondent under the impugned order by rightly stating that since the petitioner was not fully exonerated from the departmental proceedings and his punishment was cancelled only due to the fact that the Director General of Police, Chennai, had given due consideration to the fact that the petitioner had put in 33 years of service and did not go into the merits of the charges framed against him as well as the punishment imposed on him.



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13. For the foregoing reasons, this Court is of the considered view that both on merits as well as on laches, this Court cannot entertain this writ petition and accordingly, the same is dismissed. No costs.

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NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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To:

- 1.The Director General of Police,
Mylapore, Chennai-4.
- 2.The Deputy Inspector General of Police,
Tirunelveli Range, Tirunelveli.
- 3.The Superintendent of Police,
Thoothukudi District, Thoothukudi.



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ABDUL QUDDHOSE, J.

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