
(2014) 09 MAD CK 0394

In the Madras High Court

Case No : Writ Petition No. 7322 of 2014

A. Ibrahim Sheriff

APPELLANT

Vs

The Principal Secretary to Government

RESPONDENT

Date of Decision : 16-09-2014

Acts Referred:

Citation : (2014) 09 MAD CK 0394

Hon'ble Judges : D. Hari Paranthaman, J

Bench : Single Bench

Judgement

D. Hariparanthaman, J.—Heard both sides. With the consent of both parties, the writ petition is taken up for final disposal.

2. The petitioner was placed under suspension by an order dated 04.06.1992 due to the pendency of the criminal proceedings. The criminal case ended in conviction, by an order dated 04.09.1997, in S.C. No.99/1993, passed by the Principal Sessions Judge, Cuddalore. He was sentenced to undergo rigorous imprisonment for three years.

3. Based on the aforesaid conviction, the petitioner was removed from service by the third respondent by an order dated 23.12.1997.

4. Against the aforesaid conviction, the petitioner filed an appeal in CrI.A.No.680 of 1997 before this Court. A Division Bench of this Court dismissed the criminal appeal by an order dated 28.11.2002 and confirmed the order of the Principal Sessions Judge, Cuddalore.

5. The petitioner approached the Honourable Supreme Court by filing an appeal in Criminal Appeal No. 1510 of 2003 against the order of the Division Bench of this Court. The Supreme Court allowed the Criminal Appeal on 15.02.2011.

6. In the meantime, the petitioner reached the age of superannuation.

7. In these circumstances, the petitioner made a representation dated

07.03.2011 to the respondents seeking reinstatement and for consequential benefits pursuant to the judgment of the Supreme Court.

8. Pursuant to the same, the Director General of Police, the second respondent herein, sent a proposal in C.No.42259/CON 3(1)/2011 dated 13.12.2011 to the Secretary to Government, Home (Police) Department. Para 6 of the said proposal is extracted hereunder:

6) The copies of the order of suspension and removal from service are sent herewith as desired by the Government in the letter fourth cited. I request the Government to issue necessary orders reinstating Tvl.A. Ibrahim Sheriff, Ex-Sub-Inspector of Police and B.Jayaraman, Ex-Sub-Inspector of Police and allowing them to retire from service on 31.5.2005 AN and 31.08.2007 AB respectively on attaining the age of superannuation and settling the suspension period and out of employment period spent by them as duty as detailed below:

A.Ibrahim Sheriff Ex-Sub-Inspector of Police B.Jayaraman Ex-Sub-Inspector of Police
Suspension period 04.06.1992 to 23.12.1997 05.06.1992 to 13.02.1998
Out of employment period 24.12.1997 to 31.05.2005 14.02.1998 to 31.08.2007

9.The grievance of the petitioner is that though the Director General of Police sent a proposal in the year 2011 itself, no order was passed by the first respondent on the proposal. The proposal is solely based on the judgment of the Supreme Court.

10. According to the learned counsel for the petitioner, when removal is solely based on conviction and when the conviction is set aside, consequently, the petitioner is entitled to reinstatement with all benefits. Since the petitioner has reached the age of superannuation, the non employment period shall be treated as duty period for all purposes.

11. The learned Additional Government Pleader has stated that the matter is pending consideration with the Government. He has produced a draft counter affidavit and has brought to my notice para 16 of the counter affidavit in this regard.

12. The narration of aforesaid facts make it very clear that the Supreme Court has allowed the criminal appeal and based on the same, the petitioner made a representation to the respondents to reinstate him in service with all benefits. The Director General of Police also sent a proposal dated 13.12.2011 to the Secretary to Government seeking to reinstate the petitioner in service with all benefits by treating the period of non-employment as duty period and also to settle the terminal benefits. But, it is unfortunate that the matter is still under consideration even after 2 = years.

13. In these circumstances, the writ petition is disposed of with a direction to the first respondent to pass orders on the proposal dated 13.12.2011 of the Director General of Police within a period of eight weeks from the date of receipt of a copy of this order. No costs.