

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.03.2015

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

Contempt Petition No.2410 of 2014

S.Rajendran

.. Petitioner

-vs-

1. K.Ramanujam, IPS
Director General of Police
Mylapore
Chennai 600 004

2. S.Murugan, IPS
Deputy Inspector General of Police
Villupuram Range

3. S.Manoharan, IPS
Superintendent of Police
District Police Office
Villupuram District

... Respondents

Petition under Section 11 of the Contempt of Courts Act, 1971 praying to punish the respondents for disobedience of the order of this Court dated 4.12.2013 made in W.P.No.3030 of 2007.

For Petitioner :: Mr.N.Krishnakumar

For Respondents:: Mr.P.H.Arvinth Pandian
Additional Advocate General
assisted by
Mr.R.Govindasamy
Additional Government Pleader

ORDER

This contempt petition has been filed by

Mr.S.Rajendran complaining the non compliance of the order
<https://hcservices.ecourts.gov.in/hcservices/>

passed by me in Writ Petition No.3030 of 2007 on 4.12.2013,

on the premise that when the respondents were directed to refix the seniority of the petitioner on the basis of G.O.Ms.No.844, Home dated 3.6.97 followed by G.O.Ms.No.937, Home dated 21.7.98 and G.O.Ms.No.15, Home dated 7.1.2010 with all consequential service and monetary benefits, with a further direction to complete the exercise within a period of six weeks, the respondents have not taken any action.

2. While entertaining the contempt petition, notice was issued. Subsequently, placing on record a proceeding dated 9.9.2014, a statement was made by the learned Additional Advocate General that promotion was given to the petitioner upto his retirement in accordance with strict seniority and Government Orders. A perusal of the said proceeding addressed to the petitioner clearly shows that when he was enlisted as Grade II Police Constable on 2.1.75 in the erstwhile South Arcot District, he attended the promotion test for Grade I Police Constable under junior promotion process conducted in the year 1980 by the Superintendent of Police, as a result, he came out successful in the promotion test, hence, his name was included in the seniority list under Serial No.1. However, since some errors were noticed in the drawal of seniority list in the year 1980, it was revised in D.O.1859 of 1982 dated 23.9.82 by including his name in Serial No.135 in the revised list. Out of 214 persons included in the revised

list, only 92 persons were promoted, who were seniors to the petitioner, appointed between 1970 and 1973, with the result, the petitioner was reverted as Grade II Police Constable in the year 1982 for want of vacancies, as he was too junior at that time. Later on he was transferred to Villupuram District on 14.8.91. However, he was upgraded as Grade I Police Constable on 1.5.93 and further upgraded as Head Constable on 1.5.98. On completion of ten years of service as Head Constable, he was further upgraded as Special Sub Inspector of Police on 1.6.2008. Thereafter, he retired from service on reaching the age of superannuation on 28.2.2010. Therefore, the order passed by this Court has been duly complied with as per G.O.Ms.No.844, Home dated 3.6.97, G.O.Ms.No.937, Home dated 21.7.98 and G.O.Ms.No.15, Home dated 7.1.2010 respectively.

3. Disagreeing with the reply given by the respondents, the learned counsel for the petitioner repeatedly and emphatically contended before this Court that the order passed by the Hon'ble Division Bench in Writ Appeal Nos.1112 to 1114 of 2012 dated 25.11.2013 has not been properly kept in mind while implementing the order passed by this Court. Adding further, he has stated that when the Hon'ble Division Bench in paragraph-4 of its order clearly mentioned that the Government Order nowhere states that actual five years service in the cadre of Head Constable is mandatory, the petitioner, having joined the

force in 1975, should have been upgraded as Special Sub Inspector of Police in the year 2000, since he had put in 25 years of service without going into the slab system as understood by them. Adding further, he has stated that upgrading the petitioner as Special Sub Inspector of Police on 1.6.2008 is not on the basis of the order passed by this Court in Writ Appeal Nos.1112 to 1114 of 2012.

4. The learned Additional Advocate General appearing for the respondents submitted that the grievance of the petitioner that G.O.Ms.No.844, Home dated 3.6.97, G.O.Ms.No.937, Home dated 21.7.98 and G.O.Ms.No.15, Home dated 7.1.2010 have not been followed in his case is absolutely untenable, since the petitioner was rightly upgraded as Grade I Police Constable on 1.5.93, by taking into account his original date of enlistment as Grade II Police Constable on 2.1.75 along with his batchmates. Again, by complying with the aforementioned Government Orders, as per the direction given by this Court, he was again upgraded as Head Constable on 1.5.98, as he has completed five years in the post of Grade II Police Constable. Since this Court has specifically directed the respondents to apply the G.O.Ms.No.844, Home dated 3.6.97, G.O.Ms.No.937, Home dated 21.7.98 and G.O.Ms.No.15, Home dated 7.1.2010 for giving the benefit of further upgradation, as he has completed five years in the post of Grade I Police Constable from 1.5.93, exactly on completion

of five years, he was upgraded as Head Constable on 1.5.98. Again for further upgradation as Special Sub Inspector of Police, on completion of ten years as Head Constable, he was upgraded as Special Sub Inspector of Police on 1.6.2008. Therefore, when the orders passed by this Court have been followed and complied with, the petitioner cannot have any grievance.

5. I agree with the above argument of the learned Additional Advocate General for the respondents. Paragraph-4 of G.O.Ms.No.844, Home (Police-V) Department dated 3.6.97 reads as under:-

'4. The Government have considered the recommendation of the Director General of Police carefully and order that those Grade II Police Constables who have completed 10 years of service and could not get promotion to be upgraded as Grade I Police Constables and those who have served as Grade I Police Constable for 5 years to be upgraded as Head Constables.'

A bare reading of the above paragraph shows that Grade II Police Constables having completed ten years service to be upgraded as Grade I Police Constables. Similarly, Grade I Police Constables having completed five years to be upgraded as Head Constables.

6. Even the subsequent G.O.Ms.No.937, Home (Police-3)

service as Head Constables out of 25 years of total service is required for promotion as Special Sub Inspectors of Police. In this context, it is pertinent to extract paragraph-4 of the said Government Order as under:-

'The above recommendation of the Director General of Police has been considered by the Government in detail and decided to accept it. It is ordered by the Government that among the 3 branches stated in para 2 the Head Constables and Havildars who have completed a total service of 25 years out of which 10 years service completed as Head Constables may be promoted as Special Sub Inspectors of Police with the following conditions:

(a) They should not have earned any punishment within 5 years preceding the promotion.

(b) No charge under rule 3(b) of Discipline & Appeal Rules or any criminal case should be pending against them.

(c) They should be eligible for inclusion in the panel and promotion as per the rules laid down in G.O.368, P & AR Department dated 18.10.93.'

A perusal of the above paragraph clearly shows that the Government, on accepting the recommendations of the Director General of Police, had ordered that the Head Constables and Havildars who have completed a total service of 25 years, out of which ten years service completed as

Head Constables, may be promoted as Special Sub Inspectors of Police with three more conditions, namely, (i) they should not have earned any punishment within 5 years preceding the promotion; (ii) that no charge under rule 3 (b) of Discipline & Appeal Rules or any criminal case should be pending against them; and (iii) that they should be eligible for inclusion in the panel and promotion as per the rules laid down in G.O.368, P & AR Department dated 18.10.93. In addition thereto, G.O.Ms.No.15, Home (Police V) Department dated 7.1.2010 also clearly shows that ten years of qualifying service in the post of Grade II Police Constable is required to be upgraded as Grade I Police Constable by the Superintendent of Police or Commissioner of Police concerned. Again it also clearly states that five years of qualifying service in the post of Grade I Police Constable is required to be upgraded as Head Constable. Again it further states that the Constables who have completed 25 years of service, out of which ten years of service have been completed as Head Constables and not able to get regular promotion as Sub Inspectors of Police may be given upgradation as Special Sub Inspectors of Police from the first of the month succeeding the date of completion of 25 years of service by the respective Deputy Inspector General of Police or Commissioner of Police. Besides, it may be mentioned herein that the petitioner was upgraded as Special Sub Inspector of Police on 1.6.2008 on completion

of ten years of qualifying service as Head Constable far much before the issuance of G.O.Ms.No.15 dated 7.1.2010. Therefore, when the aforementioned Government Orders are repeatedly reiterating the requisite qualification of five years of qualifying service in the post of Grade I Police Constable to be promoted as Head Constable and ten years of service in the post of Head Constable out of 25 years of total service for promotion as Special Sub Inspector of Police, this Court, fully agreeing with the method adopted for upgrading the petitioner from Grade I Police Constable viz., from 1.5.93 to Head Constable on 1.5.98 and again further upgrading the petitioner as Special Sub Inspector of Police on 1.6.2008 on completion of ten years of service as Head Constable as per the aforementioned Government Orders, does not find non-compliance of the order passed by this Court. Accordingly, the contempt petition is dismissed.

ss

SD/

DEPUTY REGISTRAR(OS)

//Certified to be true copy//

Dated at Madras this the day of 2015.

COURT OFFICER(O.S.)

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One CC to Government Pleader, SR.3445

One CC to Mr.N.S.Nandakumar, Advocate, SR.3289