

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.06.2015

CORAM:

THE HONOURABLE MR.JUSTICE D.HARIPARANTHAMAN

W.P.No.18198 of 2015

G.Ragavan

... Petitioner

Vs.

1. The Government of Tamil Nadu,
Secretary to Home Department,
Fort St. George,
Chennai - 600 009.
2. The Director General of Police,
Kamarajar Salai, Mylapore,
Chennai - 600 004.
3. The Superintendent of Police,
Vellore District.

... Respondents

* * *

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Mandamus directing the second and third respondents to revise and regularise the service seniority and given the notional promotion with monetary benefits equal to the post of Sub-Inspector of Police Rank to the petitioner on the basis of the petitioner's representation dated 19.03.2015.

* * *

For Petitioner : Mr.A.Rajaram

For Respondents : Mr.S.Gunasekaran, Govt. Advocate

ORDER

The petitioner, as per the details provided in the affidavit filed in support of the writ petition, joined the service as Grade II Police Constable on 24.12.1962. He was promoted as Grade I Police Constable on 24.12.1983. He was further promoted as Head Constable on 24.12.1988. Thereafter, he was upgraded as Special Sub Inspector of Police on 24.12.1998, on completion of 10 years of service as Head Constable. He retired from service on 30.06.2001.

2. His grievance is that he should have been (i) upgraded as Grade I Police Constable on 24.12.1972, on completion of 10 years of service as Grade II Police Constable, (ii) upgraded as Head Constable with effect from 24.12.1977, on completion of five years service as Grade I Police Constable, and (iii) upgraded as Special Sub Inspector of Police with effect from 24.12.1987, on completion of 10 years of service as Head Constable.

3. The petitioner gave a representation dated 19.03.2015 in this regard seeking for refixation, as stated above and also to pay him the monetary benefits, pursuant to such refixation, besides paying revised terminal benefits with arrears.

4. The learned counsel for the petitioner relied on G.O.Ms.No.1681, Home (Police-V) Department, dated 12.10.1992 and G.O.Ms.No.844, Home (Police-V) Department, dated 03.06.1997, in support of his claim.

5. I am not in agreement with the submissions of the learned counsel for the petitioner. The aforesaid Government Orders are not applicable to the petitioner. G.O.Ms.No.1681, dated 12.10.1992 was issued granting upgradation to the stagnated Grade II Police Constables in a phased manner from 1992-1993 onwards. Such upgradation was given to 21000 Grade II Police Constables in four phased manner, as stated hereinbelow :

First Phase - 9,000 Police personnel, enlisted up to 31.12.1975 were upgraded as Grade I PCs with effect from 01.01.1993

Second Phase- 4,000 Police personnel, enlisted upto 31.12.1978 were upgraded Grade I PCs with effect from 22.07.1994.

Third Phase - 4,000 Police personnel, enlisted up to 31.12.1980 were upgraded as Grade I PCs with effect from 24.11.1994.

Fourth Phase - 4,000 Police personnel, enlisted upto 31.12.1984 were upgraded as Grade I PCs with effect from 25.07.1995.

6. Further, 2700 Grade I Police Constables, who were stagnated for a long time in the post of Grade I Police Constable, were upgraded as Head Constables.

7. Prior to issuance of G.O.Ms.No.1681, dated 12.10.1992, the petitioner was promoted on 24.12.1983 as Grade I Police Constable and he was further promoted as Head Constable on 24.12.1988. These are all not in dispute.

8. Thus, before the upgradation scheme was introduced, the petitioner was promoted as Grade I Police Constable and Head Constable. After the issuance of G.O.Ms.No.1681, the Government issued G.O.Ms.No.844, Home Department, dated 03.06.1997, granting further upgradation as Head Constable for the Grade I Police Constables on completion of five years of service as Grade I Police Constable. Thereafter G.O.Ms.No.937, dated 21.07.1998 was issued granting upgradation to the Head Constables as Special Sub Inspectors, on completion of 10 years of service as Head Constable.

9. The petitioner was granted upgradation as Special Sub Inspector with effect from 24.12.1998, on completion of 10 years of service as Head Constable. In my view, this could have been given based on G.O.Ms.No.937, Home Department, dated 21.07.1998. The petitioner could not seek retrospective upgradation from the date of his appointment based on G.O.Ms.No.1681 and G.O.Ms.No.844. The said G.O.Ms.No.1681, dated 12.10.1992 and G.O.Ms.No.844, dated 03.06.1997, contemplate upgradation to the stagnated constables. Prior to issuance of those Government Orders, Grade II Police Constables and Grade I Police Constables had to wait for the vacancies for promotion to the post of Grade I Police Constable and Head Constable posts respectively and the upgradation scheme is provided in G.O.Ms.No.1681 and G.O.Ms.No.844. G.O.Ms.No.1681 and G.O.Ms.No.844 granting the benefit of upgradation to Grade II Police Constable, on completion of 10 years of service as Grade I Police Constable and to Grade I Police Constable, on completion of 5 years of service as Head Constable.

10. The learned counsel for the petitioner is not able to state as to how he could claim retrospective upgradation. He is not able to cite any clause in the upgradation G.Os that retrospective upgradation could be granted by counting the service from the date of entry into service.

11. In fact, I have passed various orders rejecting the writ petitions of similar nature stating that department granted concession only after issuing G.O.Ms.No.1681 dated 12.10.1992 taking into account the stagnation for so many years. The petitioner could not ask for retrospective implementation of Government Orders. Upgradation scheme was introduced and benefit was given to the petitioner as stated above. But, the petitioner wants his service to be counted from the date of entry for giving retrospective upgradation.

12. In the circumstances, I am of the view that the petitioner cannot seek for retrospective upgradation, for which there is no basis. Accordingly, the writ petition is liable to be dismissed.

13. Accordingly, the writ petition fails and the same is dismissed. However, there will be no order as to costs.

s/d-
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

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To

1. The Secretary
Home Department,
Government of Tamil Nadu,
Fort St. George,
Chennai - 600 009.
2. The Director General of Police,
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Chennai - 600 004.
3. The Superintendent of Police,
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सत्यमेव जयते W.P.No.18198 of 2015

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