

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.11.2015

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

W.P.No.2163 of 2015

and

M.P.Nos.1 & 2 of 2015

V.M.Elangovan

.. Petitioner

Vs.

1. The State of Tamil Nadu
Rep.by it's Principal Secretary to
Government,
Home (Police-2) Department,
Chennai.
 2. The Director General of Police,
Mylapore, Chennai - 600 004.
 3. The Inspector General of Police/
Commissioner of Police,
Salem City, Salem District.
- .. Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari calling for the records relating to the impugned reversion order passed by the 1st respondent in his proceedings in G.O.Ms.No.33 Home (Police -2) Department dated 12.01.2015 served on the petitioner on 26.01.2015 and quash the same as illegal.

For Petitioner : Mr.Ajmal Khan
Senior Counsel
for Ajmal Associates

For Respondents: Mr.P.H.Arvinth Pandian
AAG, Asst.by
Mrs.M.E.Rani Selvam, AGP

ORDER

By consent, the writ petition is taken up for final disposal.

2. This writ petition is filed for issuance of Writ of Certiorari to quash the impugned proceedings of the first respondent G.O.Ms.No.33 Home (Police -2) Department dated 12.01.2015.

3. The case of the petitioner is that he was initially appointed as a Sub-Inspector of Police on 28.09.1987 by direct recruitment. Then, he was promoted as Inspector of Police on 14.10.1998 and he was due for promotion to the post of Deputy Superintendent of Police in the year 2009-2010. However, his name was not included in the panel to the post of Deputy Superintendent of Police due to currency of punishment of "reduction in time scale of pay by two stages for two years with cumulative effect" by the Commissioner of Police, Madurai City in P.R.No.41/06 on 30.09.2009. The petitioner preferred an appeal challenging the punishment and the same was allowed by the Additional Director General of Police (L & O) on 21.10.2011. On the basis of the recommendation of the second respondent / the Director General of Police, and after careful examination of the proposal of the 2nd respondent, the first respondent by his proceedings dated 07.11.2012 promoted the petitioner as Deputy Superintendent of Police with effect from 15.07.2010. However, by the impugned order, he was reverted to the post of Inspector of Police on the only ground he was involved in a criminal case pending in C.C.No.15 of 2005. Hence, the present writ petition.

4. Mr.Ajmal Khan, learned senior counsel appearing for the petitioner submitted that the impugned order was passed without putting the petitioner on notice and without any enquiry, so on the ground of violation of Principal of natural justice, the impugned order is liable to be set aside by this Court. In support of his contention, the learned counsel relied upon the order dated 22.04.2014 passed by this Court in W.P.No.17889 of 2013.

5. Mr.P.H.Arvinth Pandian, learned Additional Advocate General would contend that the petitioner was facing a criminal case and as per the relevant rules, the petitioner is not entitled for promotion, further the petitioner was temporarily promoted to the post of Deputy Superintendent of Police. Further the criminal case was registered against the petitioner based on the direction issued by this Court in H.C.P.No.4 of 2004 and therefore, the order does not require any interference by this Court.

6. This court in W.P.No.17889 of 2013, on similar facts, has held as follows;

"5. As rightly pointed out by the learned counsel for the petitioner, the order impugned, in the considered opinion of this court, entails civil consequences. It is not in dispute that the petitioner was promoted only temporarily. However, the said order of temporary promotion has given a benefit to the petitioner, which was sought to be taken away by the order impugned. In such view of the matter, this Court is of the view that before the order impugned came to be passed, the petitioner ought to have been heard."

7. It is not in dispute that the petitioner was promoted temporarily as Deputy Superintendent of Police and reverted to the post of Inspector of Police without affording an opportunity of hearing. In the light of the decision referred supra, I do not find force in the contention of the learned Additional Advocate General.

8. In such view of the matter, the impugned order is set aside. However giving liberty to the first respondent to pass fresh orders, if he thinks fit, after affording opportunity to the petitioner to put forth his case and in accordance with law, within a period of twelve weeks.

The writ petition is disposed of with the above directions. Consequently, connected miscellaneous petitions are closed.
Sms

Sd/-

Assistant Registrar (IV)

/True Copy/

Sub-Assistant Registrar

To

1. The State of Tamil Nadu
Rep.by it's Principal Secretary to
Government, Home (Police-2) Department,
Chennai.

2. The Director General of Police,
Mylapore, Chennai - 600 004.

3. The Inspector General of Police/
Commissioner of Police,
Salem City, Salem District.

+1 C.C. To MR.Ajmal Associates, Advocate in SR.NO.59819

W.P.No.2163 of 2015
and
M.P.Nos.1 & 2 of 2015

TM(CO)
sd : 26/11/2015



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