

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.07.2015

CORAM:

THE HONOURABLE MR.JUSTICE D.HARIPARANTHAMAN

W.P.No.22240 of 2015

M.Vadivelu

... Petitioner

Vs.

1. Deputy Inspector General of Police,
Kancheepuram Range, Kancheepuram,
2. Superintendent of Police,
Kancheepuram District,
Kancheepuram,
3. The Accountant General (A&E),
Tamil Nadu, Chennai - 600 018. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Mandamus to direct the respondents to advance the petitioner date of promotion as Grade -I Police Constable, Head Constable and Special Sub Inspector of Police to the date of actual completion of 10/5 years of service as per G.O.Ms.No.844 dated 03.06.1997, G.O.Ms.No.937 dated 21.07.1998 and G.O.Ms.No.15 dated 7.1.2010 and fix his pay in the scale of pay applicable to Special Sub Inspector of Police in the upgraded post of Special Sub Inspector of Police on completion of 25 years of service 1.3.1997 and step up his pension benefits.

For Petitioner : Mr.N.Krishnakumar

For Respondents : Mr.V.Jayaprakash Narayanan, Spl.G.P.

ORDER

The petitioner was appointed as Grade II Police Constable on 14.2.1972 and he was upgraded as Grade I Police Constable in 1991 and as Head Constable on 28.7.1998. He retired from service as Head Constable on 30.4.2006.

2. Now, the petitioner has filed this writ petition seeking to advance the promotion as Grade I Constable on completion of ten years of service as Grade II Police Constable i.e., he seeks upgradation on 13.2.1982 as Grade I Police Constable and further he seeks upgradation as Head Constable on completion of five years of service as Grade I Constable i.e., he seeks upgradation as Head Constable from Grade I Police Constable on 13.2.1987.

3. It is the further case of petitioner that he should have been promoted as Special Sub-Inspector of Police on completion of ten years of service as Head Constable i.e., on 13.2.1997, but the petitioner retired from service as Head Constable on 30.4.2006.

4. The petitioner has relied on the Government Orders in G.O.(Ms) No.844, Home (Police -5) Department, dated 3.6.1997, G.O.Ms.No.937 Home (Police.3) Department, dated 21.7.1998 and G.O.(Ms).No.15 Home (Pol.V) Department dated 7.1.2010. According to him, as per the said Government Orders and also the judgments of the Division Bench of this Court (i) dated 26.04.2010 in W.A.Nos.640 to 642 of 2010, (ii) dated 17.6.2013 in W.A.No.1506 of 2011 etc., batch, (iii) dated 2.7.2013 in R.A.Nos.10 to 12 of 2013 in W.A.No.361 of 2012 etc., batch and (iv) dated 25.11.2013 in W.A.No.1112 to 1114 of 2012, which are enclosed in the typed set of papers, he is entitled to upgradation as claimed in the writ petition.

5. I have considered the submissions made by the learned counsel for petitioner and I have also perused the Government Orders and the judgments. Heard the learned Special Government Pleader appearing for the respondents.

6. I have passed a series of orders declining such request made by the persons similarly placed like that of the petitioner. In the Police Department, earlier, the posts of Grade I Constable, Head Constable and Sub-Inspector of Police were filled by way of promotion based on vacancies. Hence, there were lot of stagnations.

7. In those circumstances, the Government issued G.O.Ms.1681, Home Department, dated 12.10.1992 upgrading 21,000 Grade-II Police Constables as Grade I Police Constables in a phased manner from 1992-93 to 1995-96 as stated in the G.O. Thereafter, those Grade-I Constables were further upgraded as Head Constables on completion of five years of service and thereafter on completion of ten years of service as Head Constable, they were further upgraded as Special Sub-Inspector of Police, following various Government Orders.

8. But those G.Os could not be applied retrospectively and to claim upgradation as Grade-I Police Constable on completion of ten years of service as Grade II Police Constable and as Head Constable on completion of five years of service as Grade-I Police Constable and further upgradation as Special Sub Inspector on completion of ten years of service as Head Constable retrospectively. Before, the issuance of G.O.Ms.No.1681, as stated above, the post of Grade I Police Constable, Head Constable and Sub Inspector of Police were filled on promotion based on vacancies. The upgradation benefit was granted in G.O.Ms.No.1681 from 1992 onwards and thereafter only upgradation to Grade I Police Constable/Head Constable/Special Sub Inspector were granted on completion of certain years of service, as stated above. Hence, the benefit of upgradation could not be sought for retrospectively.

9. In this case, the petitioner was upgraded as Grade I Police Constable in 1991 and thereafter, he was upgraded as Head Constable on 28.7.1998. Since the petitioner did not complete ten years of service as Head Constable he was not further granted upgradation as Special Sub-Inspector of Police.

10. Even on completion of ten years/five years/ten years, one cannot seek automatic upgradation as Grade I Constable/Head Constable/ Special Sub-Inspector of Police respectively, since if any disciplinary proceedings are pending, the upgradation would be deferred.

11. In the judgements, relied on by the petitioner, it was not held that the Government Orders referred to by the petitioner provides for retrospective upgradation.

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

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

usk/gg

To

1. Deputy Inspector General of Police,
Kancheepuram Range, Kancheepuram,

2. Superintendent of Police,
Kancheepuram District,
Kancheepuram,

3. The Accountant General (A&E),
Tamil Nadu, Chennai - 600 018.

1 cc to Mr. N.S.Nandakumar, Advocate Sr.No.37540

1 cc to Government Pleader.Sr.No.37713

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pmk.28.9.2015