

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:28.01.2015

CORAM:

THE HON'BLE MR.JUSTICE K.K.SASIDHARAN

W.P.No.20398 of 2012  
and  
MP.No.01 of 2012

K.Ramachandran

...Petitioner

-vs-

1. The Secretary to Government  
Home (POL.V) Department  
Fort St.George, Chennai -9
2. The Director General of Police  
Mylapore, Chennai -4

...Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India for issuance of writ of certiorarified mandamus calling for the records of the respondents in connection with the impugned order passed by the 2<sup>nd</sup> respondent in Rc.No.GB.6(1)/198198/2009 dated 03.11.2011 and quash the same in so far as denial of promotion as Personal Assistant (Administration) and further direct the respondents to consider the claim of the petitioner for inclusion of his name in the panel of Superintendents fit for appointment by recruitment by transfer as Personal Assistant (Administration) in the Police Department for the year 2010-2011 and promote him as Personal Assistant (Administration) at par with his junior with all consequential service and monetary benefits.

For Petitioner : Mr.K.Venkatramani SC for  
Mr.M.Muthappan

For R1 and R2 : Mr. M.S.Ramesh  
Additional Government Pleader

## O R D E R

The petitioner was denied promotion to the post of Personal Assistant (Administration) on the ground that punishment of Censure was in operation during the crucial period. The punishment of Censure was imposed on 26.3.2011. The first respondent promoted a set of officers to the post of Personal Assistant (Administration) including the juniors of the petitioner for the panel year 2010-2011 vide G.O.(D).No.488 Home (Pol.V) Department, dated 28.5.2011. The punishment imposed on the petitioner was set aside by order dated 08.7.2011. The petitioner immediately thereafter submitted a representation dated 11.8.2011 requesting the respondents to consider his case for promotion taking into account the promotion given to his juniors vide order dated 28.5.2011. The said representation was rejected by order dated 03.11.2011 by Director General of Police on the ground that a charge was pending against him in PR.No.7 of 2011 and as such, it was not possible to promote him to the post of Personal Assistant (Administration). The said order is under challenge in this writ petition.

2. Since the second respondent has taken up a contention that the Disciplinary Proceedings were pending against the petitioner, in PR.No.7 of 2011, I have directed the learned Additional Government Pleader to peruse the file and to inform as to whether charge memo was served on the petitioner before the crucial date.

3. The learned Additional Government Pleader on a perusal of the file submitted that charge memo dated 01.9.2011 in PR.No.7 of 2011 was actually served only on 02.9.2011, which was subsequent to the crucial date.

4. There is no dispute that the petitioner was due for promotion by inclusion of his name in the panel for the year 2010-2011. However, he was not given promotion on account of currency of punishment imposed by order dated 26.3.2011. The first respondent promoted several others including the juniors of the petitioner vide order dated 28.5.2011. It was only thereafter the punishment imposed on the petitioner was set aside by order dated 08.7.2011.

5. The order dated 08.7.2011 setting aside the punishment would date back to the earlier period. The petitioner is therefore perfectly right in his contention that his name should be considered and included in the panel for promotion of the year 2010-2011.

6. The subsequent charge memo was served only after the crucial date. The respondents are not correct in contending that on the date on which the name of the petitioner was considered for promotion, Disciplinary Proceedings in PR.No.7 of 2011 was pending against him. Even the said charge memo was served on the petitioner only after the cut off date. In fact, the subsequent charge memo is nothing to do with the claim made by the petitioner for promotion on account of the order dated 08.7.2011. Therefore, I am of the view that the petitioner is entitled to succeed.

7. In the result, order dated 03.11.2011 on the file of the second respondent is set aside. The first respondent is directed to consider the case of the petitioner for promotion by including his name in the panel for the year 2010-2011 to the post of Personal Assistant (Administration) taking into account the order dated 08.7.2011. In short, the case of the petitioner should be considered for promotion taking into account the promotion given to his juniors by including him in the panel for the year 2010-2011. Such exercise shall be completed within a period of three months from the date of receipt of a copy of this order.

8. The writ petition is allowed to the extent indicated above. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-  
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government  
Home (POL.V) Department  
Fort St.George, Chennai -9

WEB COPY

2. The Director General of Police  
Mylapore, Chennai -4

1 CC to Mr.M.Muthappan, Advocate SR.No. 4425

1 CC to the Government Pleader, SR.No. 4261

W.P.No.20398 of 2012

KJI (CO)  
PSI (23.02.2015)



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