

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 30.9.2015.

CORAM

THE HON'BLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.30765 of 2015

and

M.P.No.1 of 2015

B. Senthil Kumar

Petitioner

vs.

1 The Principal Secretary to Govt.
Home Department Secretariat
Fort St. George Chennai - 600 009

2 The Director General of Police
Tamilnadu Police Department
Chennai - 600 004

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of mandamus directing the respondents herein to consider and pass orders on the petitioner's representation dated 29.7.2015 pertaining to temporarily promoting the petitioner as Deputy Superintendent of Police within the time frame.

For Petitioner : Mr.R.Srinivas

For Respondents : Mr.V.Subbiah, Special Govt. Pleader

ORDER

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

2. The petitioner would submit that he joined services of Tamil Nadu Police Department as Sub Inspector of Police in the year 1987 and during 1991, he was sent on deputation to Central Bureau of Investigation (CBI) and participated in investigating very sensitive cases. The petitioner was promoted to the cadre of Inspector of Police in the year 1998 and after repatriation from CBI, he was posted as Inspector of Police, Central Crime Branch, Chennai in the year 2009. According to him, he has rendered meritorious and unblemished services and also obtained Chief Minister's Police Medal for excellence in investigation and the medal for meritorious service. He has further stated that based on a complaint given by one V.Selvam, a case in Crime No.4 of 2010 was registered by the

jurisdictional Vigilance and Anti-corruption against him for the alleged commission of offence punishable under sections 7, 12 and 13 (2) read with 13(1d) of the Prevention and Corruption Act, which culminated in a charge sheet filed in C.C.No.11 of 2012 on the file of the Special Court, Chennai. The father-in-law of the petitioner filed an application for discharge and the same was allowed and the revision filed by the State in Criminal Revision Case No.919 of 2013 was also dismissed on 25.11.2013, so also the SLP. The petitioner was initially placed under suspension and it was put to challenge in W.P.No.34699 of 2013 and pursuant to the orders passed by this court, the orders of suspension was revoked and he was reinstated in service as Inspector of Police, Economic Offences Wing, Vellore wherein the petitioner has been working. Simultaneously, the departmental proceedings had also ended with the punishment of censure by order dated 5.3.2015 and insofar as the allegation of corruption is concerned, P.R. No.36 of 2011 is pending. The grievance expressed by the petitioner is that de hors the criminal proceedings and departmental proceedings, in the light of Rule 39(d) of the Tamil Nadu State Service Rules, he is entitled to temporary promotion to the post of Deputy Superintendent of Police and in this regard, he has also submitted a representation dated 29.7.2015 to the first respondent and since no order has been passed, he has come forward to file the present writ petition.

3. Mr.R.Srinivas, learned counsel appearing for the petitioner would submit that de hors the pending criminal proceedings as well as departmental proceedings, the request made by the petitioner for temporary promotion to the post of Deputy Superintendent of Police may be considered in the light of the abovesaid rule and he has drawn the attention of this court to G.O.Ms.No.929 Home (Pol.1A) Department dated 29.10.2010 wherein, in a similar circumstances, one R.Kulandaisamy was considered for the promotion to the post of Additional Superintendent of Police (Category I) for the year 2006-2007 and prays for appropriate orders.

4. Per contra, Mr.V.Subbiah, learned Special Government Pleader, who accepts notice for the respondents, would submit that since the petitioner is facing criminal prosecution and departmental proceedings, his name was rightly deferred for the promotion to the post of Deputy Superintendent of Police.

5. This court has considered the rival submissions and the materials placed on record. Considering the limited relief sought for by the petitioner, this court directs the first respondent to consider and dispose of the representation of the petitioner dated 29.7.2015, on merits and in accordance with law, after taking into consideration Rule 39(d) of the Tamil Nadu State Service Rules as well as G.O.Ms.No.929 of the first respondent dated 29.10.2010, within a period of six weeks from the date of receipt of copy of this order and communicate the decision to the writ petitioner.

6. The writ petition is disposed of accordingly. No costs. The connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

ssk.

To

1 The Principal Secretary to Govt.
Home Department Secretariat
Fort St. George Chennai - 600 009

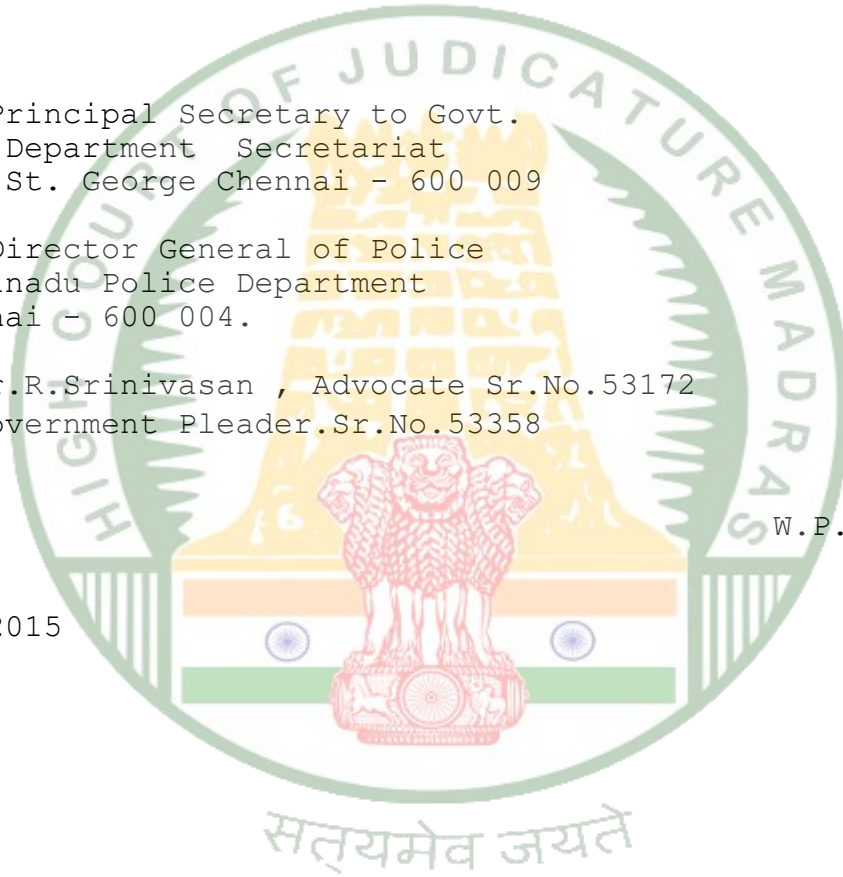
2 The Director General of Police
Tamilnadu Police Department
Chennai - 600 004.

2 cc to Mr.R.Srinivasan , Advocate Sr.No.53172

1 cc to Government Pleader.Sr.No.53358

W.P.No.30765 of 2015

scd(co)
pmk.6.10.2015



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