

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 30.10.2015

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYNARAYANAN

WP.No.34777/2015 & MP.No.1/2015

M.Asaithambi

..
Versus

Petitioner

1.The Secretary to Government
Home [Pol.II] Department
Fort St George, Chennai 600 009.

2.The Director General of Police
Dr.Radhakrishnan Salai,
Chennai 600 004.

3.The Superintendent of Police
Tiruvallur District. ..

Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India praying for a writ of certiorarified mandamus calling for the records of the 3rd respondent in connection with the impugned order passed by him in Na.K.No.A1/16689/2015 dated 08.07.2015 and quash the same insofar as the petitioner is concerned and direct the respondents to consider the claim of the petitioner for upgradation as Special Sub-Inspector of Police w.e.f. 01.06.2006 on completion of 25 years of service by taking into consideration the total service rendered by the petitioner from 17.12.1979 to 31.10.2014 and grant the petitioner all consequential service and monetary benefits including pensionary benefits based on the Judgment rendered by the Madurai Bench of this Court in WP [MD] No.4864/2011 etc dated 27.04.2011 within a reasonable time.

For Petitioner : M/s.T.Rajarathi

For Respondents: Mr.V.Subbiah, Spl.GP

ORDER

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

2 The petitioner entered into in the services as Grade-II Police Constable in District Armed Reserve, Chengelpet West District, Kancheepuram, on 17.12.1979, upgraded as Grade-I Police Constable on 22.07.1994 on got his further promotion as

Head Constable in the year 1999 and became a Special Sub-Inspector of Police on 03.10.2013 and on attaining the age of superannuation, retired from service on 31.10.2014.

3 The petitioner would further state that based on the orders passed by the Tamil Nadu Administrative Tribunal, in a batch of cases, as many as 16000 Grade II Police Constables got promoted as Grade I Police Constable and the petitioner was also one among them and he got the said promotion after 18 years of service. Thereafter, the Government has introduced Policy Decision in the year 1998 in the form of administrative instructions stating that the officials who have completed 25 years of total services out of which, 10 years as Head Constable have to be upgraded as Special Sub Inspector of Police and making promotion to the said post through Range promotion Board was abolished and so also the age of 55 years for Head Constable has also been removed.

4 The grievance expressed by the petitioner is that he was given upgradation only in the year 1994 as Grade-I Police Constable and Head Constable in the year 1999 and Special Sub Inspector of Police in the year 2010. The persons, viz., C.Thangapandiyan, Michael Antony and R.Paul Durai, aggrieved on account of the very same fact, have filed WP.[MD] No.2888, 2889 and 4864/2011 and the said writ petitions were allowed by this Court on 27.04.2011 with a direction, directing the official respondents therein to grant notional promotion to them on the basis of their date of appointment and the State, aggrieved by the said order, filed WA.Nos.361, 364 and 367/2012 and the Division Bench of this Court, has set aside the order vide judgment dated 26.06.2012. The review applications filed by the above said persons were allowed on 02.07.2013 by this Court and the State challenging the said review order, filed SLP.Nos.19349 to 19351/2014 and it was dismissed by the Hon'ble Supreme Court of India on 14.07.2014, directing the State to implement the order. Accordingly, the 3rd respondent has issued an order of implementation on 20.03.2015 and the DIG of Police, Tirunelveli Range in C.No.A1/12265/2013/ROO No.141/2014 dated 27.03.2015 has also passed an order. The petitioner in this regard, has also submitted a representation on 12.05.2015 and the same was rejected on the ground that the implementation order refers only to the concerned petitioners alone and the petitioner herein and challenging the legality of the said order, the petitioner came forward to file this writ petition.

5 Learned counsel for the petitioner would submit that admittedly, similarly placed persons have approached this Court and were granted the relief and in all fairness, the respondents, without driving the petitioner to approach this Court, ought to have implemented the orders, in respect of similarly placed persons in letter and spirit and prays for appropriate orders.

6 This Court heard the submissions of Mr.V.Subbiah, learned Special Government Pleader who accepts notice on behalf of the respondents and perused the materials placed before it.

7 No doubt, the implementation orders have been passed, based on the earlier orders passed by this Court and it is the specific stand of the petitioner that he is also similarly placed like that of the petitioners in WP [MD] Nos.2889, 2888 and 4864/2011. In the light of the above facts and circumstances, this Court is of the view that the impugned order warrants interference and the matter is to be remanded back to the 3rd respondent for fresh consideration and adjudication.

8 In the result, the writ petition is partly allowed and the impugned order in Na.Ka.No.A1/16689/2015 dated 08.07.2015 passed by the 3rd respondent is set aside and the matter is once again remanded to the 3rd respondent, who shall take into consideration the above cited orders passed by this Court as well as the implementation orders referred to above and pass orders on merits and in accordance with law within a period of ten weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS VII)

/true copy/

Sub Asst. Registrar

AP
To

1.The Secretary to Government
Home [Pol.III] Department
Fort St George, Chennai 600 009.

2.The Director General of Police
Dr.Radhakrishnan Salai,
Chennai 600 004.

3.The Superintendent of Police
Tiruvallur District.

+1 cc to MR.M.Muthappan, Advocate, sr.59683
+1 cc to Government Pleader, sr.59847

WP.No.34777/2015

sr co
kra 24.11.2015