

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.03.2015

CORAM

THE HONOURABLE MR. JUSTICE K.K.SASIDHARAN

Writ Petition No.18594 of 2012
and M.P.No.2 of 2012 & 1 of 2015

J.AUGUSTINE FRANCIS

[PETITIONER]

Vs

1 STATE OF TAMIL NADU
REP. BY ITS SECRETARY TO GOVERNMENT
HOME DEPARTMENT SECRETARIT CHENNAI-9.

2 THE DIRECTOR GENERAL OF POLICE
TAMIL NADU MYLAPORE CHENNAI-4.

3 ADDITIONAL DIRECTOR GENERAL OF POLICE
ARMED POLICE KILPAUK CHENNAI-10.

4 K.P.KUNHIKRISHNAN
INSPECTOR OF POLICE T.S.P. IV BATTALIION
KOVAIPUDUR COIMBATORE

[RESPONDENTS]

Petition filed under Article 226 of the Constitution of India for the issuance of writ of Certiorari calling for the records relating to the order bearing Ref. C.No.A1/ 25293/2011 dated 12.12.2011 issued by the 3rd respondent as being illegal arbitrary and contrary to G.O.Ms. No.1710 dated 23.11.2007 and to quash the same and consequently direct the 3rd respondent to redraw the panel for promotion from the Post of Inspector (General)/ Inspector (Adjutant) to the Assistant Commandant (Cat-III).

For Petitioner : Mr.Govindaprasad for
Mr.A.Ilayaperuamal

For Respondents : Mr.M.S.Ramesh, AGP (1 to 3)
For R1 to R3

O R D E R

This writ petition is directed against the proceedings dated 12.12.2011 on the file of the 3rd respondent, whereby and whereunder, while preparing the panel for promotion to the post of Assistant Commandant for the year 2011-12, the name of the petitioner was not included on account of his failure to complete 5 years in the post of Inspector of Police.

2. The petitioner joined the Special Police Service as Police Constable Grade II on 03.12.1979. Thereafter, he was promoted as

Naik and Havildar on different dates. The petitioner was thereafter promoted as Sub-Inspector and later as Inspector of Police. The next avenue of promotion is to the post of Assistant Commandant, Category III. The name of the petitioner was considered along with others for promotion to the post of Assistant Commandant for the panel year 2011-2012. However, the 3rd respondent found that the petitioner was not having 5 years of experience as Inspector and as such, he was not eligible for promotion. Feeling aggrieved by the said order omitting his name for promotion to the post of Assistant Commandant, the petitioner is before this Court.

3. The 3rd respondent filed a counter affidavit supporting the impugned proceedings.

4. Heard the learned counsel for the petitioner and the learned Additional Government Pleader on behalf of the respondents 1 to 3.

5. The proceedings dated 12.12.2011 is challenged primarily on the ground that inspite of his eligibility, the name of the petitioner was not considered. The service particulars produced by the petitioner clearly show that he has not completed 5 years of service as Inspector as on the date on which the panel for the year 2011-12 was prepared. I therefore, did not find any merit in the contention taken by the petitioner to the effect that his name was not included in the panel inspite of his claim for promotion.

6. The learned counsel for the petitioner submitted that the petitioner completed 5 years of experience as on 01.02.2014. The service particulars produced by the petitioner also supports the said contention.

7. According to the petitioner, he is retiring on 31.10.2015 and there are sufficient posts available to give him promotion to the post of Assistant Commandant. This Court also granted an interim order directing the respondents 1 to 3 to keep one post of Assistant Commandant (Category III) vacant until further orders.

8. In view of the fact that an interim order is granted by this Court and taking into account the fact that the petitioner is retiring on 31.10.2015, necessarily his claim for promotion should be considered by the 1st respondent.

9. In view of my finding that the Government have rightly denied promotion to the petitioner by omitting his name in the panel for the year 2011-12, there is no question of quashing the impugned order. However, taking into account that the petitioner is now qualified for promotion, necessarily, a direction should be issued to that effect.

10. In the result, a writ in the nature of a writ of mandamus is issued directing the respondents 1 and 2 to take immediate follow up action to give promotion to the petitioner by including

his name for the relevant panel year. Such exercise shall be completed within a period of three months from the date of receipt of a copy of this order.

The writ petition is disposed of with the above direction. No costs. Connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar
Dated:26.3.15

True Copy

Sub Assistant Registrar

To

1 THE SECRETARY TO GOVERNMENT
STATE OF TAMIL NADU
HOME DEPARTMENT SECRETARIT CHENNAI-9.

2 THE DIRECTOR GENERAL OF POLICE
TAMIL NADU MYLAPORE CHENNAI-4.

3 ADDITIONAL DIRECTOR GENERAL OF POLICE
ARMED POLICE KILPAUK CHENNAI-10.

+1 cc to Mr.a.Ilayaperumal, Advocate,SR.16496

+1 cc to Government Pleader,SR.16372.

ug(co)
krd 26/3

W.P.No.18594 of 2012

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