

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18-11-2016

(Orders reserved on 07.11.2016)

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No..19053 of 2014

P.Ravi ... Petitioner
Vs.

1. The Principal Secretary to Government,
Home (Pol.II) Department,
Fort St.George, Chennai-9.
2. The Director General of Police,
Dr.Radhakrishnan Salai,
Mylapore, Chennai-4. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the records of the first respondent in connection with the impugned order passed in Letter No.30110/Pol.2/2012-14, dated 10.06.2014 and quash the same and further direct the respondents to consider the claim of the petitioner for accelerated promotion notionally as Superintendent of Police, Category-1, for the year 2004 within a reasonable time and grant him all consequential service and monetary benefits.

For Petitioner : Mr.M.Muthappan

For Respondents : Mr.R.Venkatesh, Govt. Advocate

ORDER

The petitioner has filed the above Writ Petition praying for issuance of a Writ of Certiorarified Mandamus to call for the records of the first respondent in connection with the impugned order passed in Letter No.30110/Pol.2/2012-14, dated 10.06.2014 and quash the same and further direct the respondents to consider the claim of the petitioner for accelerated promotion notionally as Superintendent of Police, Category-1, for the year 2004 within a reasonable time and grant him all consequential service and monetary benefits.

2. It is the case of the petitioner that he entered into service as directly recruited Sub-Inspector of Police through selection conducted by the Department and appointed to service

on 27.09.1987. He was promoted as Inspector of Police on 14.06.2000. Subsequently, his seniority has been regularised by including his name in the panel of the year 1997-98. He has so far received 25 rewards and has not come to the adverse notice so far. During the year 2004, while he was serving as Inspector of Police, Maduravoyal Police Station, Chennai, he had arrested a notorious criminal, by name Mohanram, who was involved in many murder cases and also in fabrication of country bombs and he was wanted in many cases not only in the petitioner's Police Station jurisdiction, but also in the other jurisdiction. He was at large for quite a long time, despite several attempts made by the SHOs of the respective Police Stations, including the petitioner's Police Station, and he could not be apprehended. On 17.12.2004 at about 15.30 hours, the petitioner along with his special party, arrested the notorious criminal and during the course of arrest, he was in possession of one pistol loaded with 8 bullets and two country-made bombs and he tried to attack the petitioner and others with deadly weapons. Due to the alertness and tactics and timely application of mind, the petitioner, with great strain and struggle, arrested him and seized the deadly weapons he possessed. In this connection, a case was registered in Maduravoyal case Crime No.1347/2004, under the Arms Act and Explosive Substances Act.

3. It is further stated by the petitioner that the then Deputy Commissioner of Police, Ambattur, in appreciating the petitioner's courageous deed, had initiated a proposal to the Director General of Police by duly recommending his name for the grant of accelerated promotion as Deputy Superintendent of Police. The proposal was forwarded to the Director General of Police for onward transmission to the Government, as the Government is the competitive authority for granting accelerated promotion to the post of Deputy Superintendent of Police. This had happened during the year 2004 and the proposal was mooted during the year 2006, i.e. after lapse of one year from the date of arrest of the above said accused. The petitioner was subsequently promoted as Deputy Superintendent of Police in the regular panel of the year 2008-09 as per G.O.Ms.No.504, Home (Pol.2) Department, dated 29.06.2009. Thereafter, the petitioner made a representation for promoting him by accelerated promotion and his claim had been recommending by the Department. Even after a lapse of several years, it has not been considered, but it is the grievance of the petitioner that other similarly placed persons' claims have been considered and they were promoted as Deputy Superintendent of Police.

4. It is further stated by the petitioner that he approached this Court in W.P.No.9458 of 2013 and sought for a direction to dispose of his representation, dated 19.05.2011. This Court admitted the said Writ Petition and it was pending. In the meantime, the petitioner has received the order dated 23.07.2013

issued by the first respondent, rejecting the claim of the petitioner for accelerated promotion retrospectively from the year 2004, on the ground that based on the recommendations of the Third Police Commission, the Government have scrapped the scheme of accelerated promotion in G.O.Ms.No.769, Home (Pol.XI) Department, dated 11.07.2008, and hence, the request of the petitioner, was not feasible of compliance.

5. It is the further case of the petitioner that there are several instances in the past, wherein, the persons who have performed courageous act, have been granted accelerated promotion, cash rewards, etc. In the case of the petitioner, there was a delay and the petitioner's claim was rejected based on the subsequent order of the Government scrapping the accelerated promotion. The petitioner further stated that the said Government Order cannot be put against him for the reason that it can be given effect to prospectively after any act, dated 11.07.2008 and it is not applicable to the claim of the petitioner. For the delay in acting on the recommendation for accelerated promotion, the petitioner cannot be held responsible. Moreover, the said order dated 23.07.2013 was communicated to the petitioner only on 19.11.2013 and by the time, the Government issued another order in G.O.Ms.No.805, Home (Pol.V) Department, dated 07.10.2013, by constituting a Committee to grant accelerated promotion to the Police personnel who performed extraordinary act in apprehending the dreaded criminals, and followed by, G.O.Ms.No.959, Home (Pol.1.A) Department, dated 08.11.2013, was issued, whereby, accelerated promotion was issued to other Police personnel. It is the grievance of the petitioner that his name has been recommended for accelerated promotion for his bravery action and the first respondent should have considered the petitioner's claim based on the earlier representation, which has been recommended by the second respondent.

6. It is further stated by the petitioner that since his claim was rejected, he filed W.P.No.1089 of 2014, challenging the order dated 23.07.2013 passed by the first respondent. This Court, by order dated 24.01.2014, directed the petitioner to submit a fresh representation ventilating his grievance to the respondents within one week from the date of receipt of a copy of the order, along with the order copy. The first respondent was directed to consider the said representation, in the light of G.O.Ms.No.805, Home (Police-V) Department, dated 07.10.2013 and G.O.Ms.No.959, Home (Police.1.A) Department, dated 08.11.2013 and pass appropriate orders on merits and in accordance with law, within a period of four weeks from the date of submitting the representation by the petitioner. Following the above direction of this Court, the petitioner made a representation, dated 27.02.2014. Thereafter, the impugned order, dated 10.06.2014, had been passed rejecting the claim of

the petitioner. Hence, the petitioner has filed this Writ Petition for the above relief.

7. When the Writ Petition is taken up for hearing, learned counsel for the petitioner, by adverting to the averments made in the affidavit, submitted that by G.O.Ms.No.805, Home (Police-V) Department, dated 07.10.2013, a Committee was formed for granting accelerated promotion and based on the recommendations of the Committee, the Government in G.O.Ms.No.959, Home (Pol.1.A) Department, dated 08.11.2013, issued orders granting accelerated promotion to 20 police personnel from the rank of Constable to the rank of Additional Superintendent of Police. Learned counsel further submitted that in the case of the petitioner, the Commissioner of Police, Chennai recommended the name of the petitioner for accelerated promotion, and the DGP has to follow the recommendation of the Commissioner of Police, Chennai, under whom the petitioner has served and earned the commendation. Learned counsel also submitted that the second respondent has no role to play insofar as recommending the claim of the petitioner for promotion and it is only the Committee constituted by the Government, which had to decide whether the petitioner is eligible for accelerated promotion or not, and therefore, the question of rejecting the claim of the petitioner by the first respondent does not arise. Merely because the second respondent has not recommended the claim of the petitioner for accelerated promotion, the claim of the petitioner cannot be rejected. Hence, learned counsel for the petitioner prayed for quashing the impugned order.

8. Learned Government Advocate appearing for the respondents, by filing detailed counter affidavit, submitted that the petitioner, without applying his mind, is claiming accelerated promotion by equating his act with the 20 Police personnel who were involved in the operation with dreaded terrorists like Fakrudin, Panna Ismail and Bilal Malik, by risking their lives and shown exemplary brave and courage, which in no way be equalised with the act done by the petitioner. Learned Government Advocate further submitted that the petitioner's act in the noted case, is commendable, but it does not fall under the category of exceptional work like the 20 Police personnel noted above and hence, his case was not recommended for promotion. The Commissioner of Police, Chennai Police, under whom the petitioner served, has not all recommended the petitioner's case for accelerated promotion, as contended by the petitioner, since his work was not an exceptional one, even though it is commendable. It is not correct to state that the second respondent has no role to pay, since the Director General of Police is the Head of the entire State Police Force and before forwarding the matter to Government, he will analyse and study the case carefully and finally he will send the proposal to the Government with

recommendation for placing it before the Committee for granting accelerated promotion to the Police personnel. Learned Government Advocate further submitted that the claim of the petitioner that the DGP has no role to play, itself, shows that he want to get accelerated promotion in a circumvent manner, which is not justifiable and hence, the impugned order is justified and prayed that the Writ Petition may be dismissed.

9. Keeping in mind the above submissions made by the learned counsel on either side, I have carefully considered the same and perused the materials available on record.

10. It is seen that as per G.O.Ms.No.805, Home (Police-V) Department, dated 07.10.2013, a Committee was constituted for considering the cases of accelerated promotion to the Police personnel, under the Chairpersonship of the Chief Secretary with the following members, namely Principal Secretary to Government, Home, Prohibition and Excise Department, Principal Secretary to Government, Personnel and Administrative Reforms Department and Director General of Police. The Government, in the said G.O., was of the considered view that Police personnel who have performed acts of extraordinary bravery and valour, when engaged in their efforts to apprehend and deal with hardcore criminals, terrorists and other anti-social elements, should be suitably recognised and hence, the said Committee was formed to examine the cases of awarding accelerated promotion to Police personnel who have performed acts of extraordinary bravery and valour in achieving operational success and to submit its recommendations to the Government for issuing suitable orders.

11. Therefore, it is only for the said Committee to decide as to whether any act performed by a Police personnel, is extraordinary bravery and valour in achieving operational success. Hence, I find that the impugned order passed by the first respondent in not forwarding the name of the petitioner to the said Committee for accelerated promotion, is not legally sustainable, because, as per the said G.O.Ms.No.805, it is only for the Committee to decide and not for the respondents to decide the case of the petitioner for accelerated promotion.

12. Accordingly, the respondents are directed to forward the proposal by recommending the name of the petitioner to the above said Committee for considering the case of the petitioner for accelerated promotion, within a period of two weeks from the date of receipt of a copy of this order. On receipt of the said proposal, the Committee is directed to consider the case of the petitioner for accelerated promotion and pass appropriate orders, on merits and in accordance with law, within a period of two weeks from the date of receipt of such proposal.

13. With the above observations and directions, the Writ

Petition is disposed of. No costs.

Sd/-
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

Copy to

1. The Principal Secretary to Government,
Home (Pol.II) Department,
Fort St.George, Chennai-9.

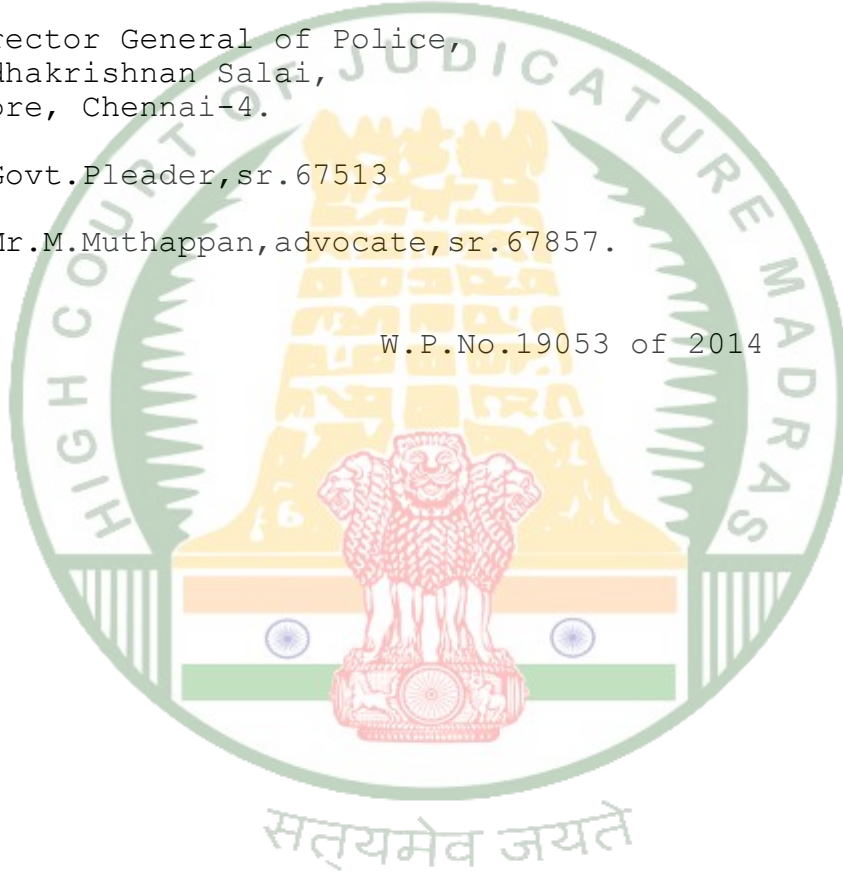
2. The Director General of Police,
Dr.Radhakrishnan Salai,
Mylapore, Chennai-4.

+1 cc to Govt.Pleader,sr.67513

+1 cc to Mr.M.Muthappan,advocate,sr.67857.

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