

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.09.2016

CORAM

THE HONOURABLE MR. JUSTICE R.MAHADEVAN

W.P.No.11189 of 2012
and MP.No.1 of 2013

A.Ansar Basha

.. Petitioner

Vs

The Commissioner of Police,
Salem City,
Salem - 636 006.

.. Respondent

Writ petition filed under Article 226 of the Constitution of India praying for a Writ of Certiorarified Mandamus, to call for the entire records relating to the impugned order passed by the respondent in his proceedings Rc.No.A-1/15778/2011 dated 03.02.2012 and quash the same and consequently direct the respondents to give effect the promotions to the post of Grade-I and Special Sub Inspector of Police by taking note of length of petitioner service by way of giving monetary benefits to the petitioner.

For Petitioner : Mr.C.Prakasam

For Respondent : Mr.K.Dhananjayan, SGP

ORDER

By consent of both the parties, the Writ Petition itself is taken up for final disposal.

2. The petitioner has filed this writ petition to quash the order dated 03.02.2012 passed by the respondent and consequently direct the respondent to promote him to the post of Grade-I and Special Sub Inspector of Police and give all the monetary benefits by taking note of his length of service.

3. The case of the petitioner is that initially, he was appointed as Police Constable Grade - II on 18.08.1970. Subsequently, he was promoted as Police Constable Grade-I on

20.02.1993 and Head Constable on 11.01.1998. Thereafter, he voluntarily retired from service with effect from 31.05.2005. According to the petitioner, by virtue of G.O.Ms.No.844 Home (Police-5) Department dated 03.06.1997, he is entitled to get promotion as Police Constable Grade -I in the year 1980 and as Head Constable in the year 1985 and as Sub Inspector of Police in the year 1995 itself. Even though the petitioner voluntarily retired from service, he is entitled to get notional promotions and appropriate monetary benefits. Hence, he made representations to the respondent in this regard. Thereafter, the respondent has rejected one of the representations of the petitioner dated 15.07.2011 by the impugned order. Therefore, the petitioner is before this Court with the present writ petition.

4. When M.P.No.1 of 2013 in WP.No.11189 of 2012 filed to fix an early date for final hearing of the writ petition, came up for hearing, it is represented by the learned counsel appearing on either side that the issue involved herein is squarely covered by the order of this Court in W.P.No.18554 of 2012 etc. batch dated 31.10.2014, which was subsequently followed in various other writ petitions.

5. This Court perused the order dated 31.10.2014 made in W.P.No.18554 of 2012 etc. batch of cases. For better appreciation, the relevant paragraphs of the said order are extracted hereunder:

"2.The learned counsel appearing on either side has submitted that the issue involved in these Writ Petitions is covered by the Judgment of the Division Bench of this Court in W.A.(MD) Nos.1506 of 2011 etc., batch dated 17.06.2014. It is also submitted by the learned counsel appearing on either side that based upon the same, appropriate direction may be issued to the respondents in favour of the petitioners. In so far as the fixation of the notional promotion is concerned, this Court in W.P.(MD) Nos.15205 to 15207 etc., batch by an order dated 16.11.2013 was pleased to hold as follows:

"7. In my considered opinion, the petitioners herein are similarly placed like that of the respondents in the writ appeals. Therefore, they are also entitled for similar relief. In view of the same, these Writ petitions are allowed with a direction to the respondents to apply the norms reiterated by this Court in the common judgment passed in W.A.(MD) No.1506 of 2011, etc. batch, dated

17.06.2013, in the light of the Government Orders referred to above, and to give promotion as well as seniority to the petitioners herein. Consequently, the connected Miscellaneous Petitions are closed. No costs."

3. It is also submitted that the earlier decision of the Division Bench has also been confirmed by the Hon'ble First Bench of this Court in W.P.No.185 of 2012 dated 31.01.2012, wherein it was held as follows:

"2. The respondent/Writ Petitioner filed the aforesaid writ petition seeking to quash the order passed by the 3rd appellant/third respondent rejecting the request of the respondent/writ petitioner to count seniority of his respective services while serving in different streams of police department and also to give promotion to him. The learned Single Judge, following the earlier order dated 13.04.2006 passed by this Court in W.P.No.27036 of 2005, which was confirmed by the Division Bench of this Court by judgment, dated 16.06.2008 in W.A.No.500 of 2008, allowed the said writ petition and directed the appellants/respondents to pass a revised order within a period of three months from the date of receipt of copy of the order. Hence, the appeal.

3. There is no material brought before us by the learned Additional Government Pleader to show that while the respondent was working as grade II Police Constable in the Tamilnadu Special Police he was transferred to Armed Reserve without foregoing his seniority and promotion. Moreover, before the writ court, the learned Government Advocate on verification of the material has conceded that the issue is fully covered by the decision rendered by this Court in W.A.No.500 of 2005 on 16.06.2008.

4. Hence, we do not find any merit in this writ appeal, which is accordingly dismissed. Consequently, the connected miscellaneous petition is also dismissed. However there will be no order as to costs."

4. Considering the same, the impugned orders are set aside and the respondents are directed to give notional promotion to all the petitioners and thereafter fix the revised pay. Upon such fixation the retiral benefits and the pensionary benefits have to be paid to the petitioners who retired from service within a period of three months from the date of receipt of a copy of this order."

Following the above order, this Court is inclined to dispose of the present writ petition.

6. Accordingly, the impugned order dated 03.02.2012 passed by the respondent is set aside. The respondent is directed to give notional promotion to the petitioner and thereafter fix the revised pay. Upon such fixation, the retiral benefits and the pensionary benefits have to be paid to the petitioner within a period of three months from the date of receipt of a copy of this order.

7. With the above direction, the writ petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

To
The Commissioner of Police,
Salem City,
Salem - 636 006.

+1 cc to Mr.C.Prakasam Advocate sr 54728
+1 cc to Government pleader sr 54685

W.P.No.11189 of 2012

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