

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :: 13.7.2016

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.23849 of 2016

1 K.Selvam
2 M.Raja
3 D.Lazar
4 A.Srinivasan
5 D.Munirathinam
6 K.Umapathy
7 P.Rajendran petitioners

versus

1 State of Tamil Nadu
Rep. by its Home Secretary Fort St. George
Chennai-600 009.
2 The Director General of Police
Kamarajar Salai Mylapore Chennai-600 004.
3 The Deputy Inspector
General of Police Post Box No.601 Dr.Radha
Krishnan Salai Mylapore
Chennai-600 004. respondents

Writ Petition filed under Art.226 of the Constitution of India praying for a Writ of Mandamus directing the 1st 2nd and 3rd respondents to dispose of the representation dated 1.4.2016 to grant notional promotion coupled with consequential benefits within a time frame.

For petitioner Mr.R.Karthikeyan

For respondents Mrs.M.E.Raviselvam, A.G.P.

O R D E R

Heard Thiru.R.Karthikeyan, learned counsel for the petitioner and Thiru.M.E.Raviselvam, learned Additional Government Pleader for the respondents.

2. With the consent of both the sides, the Writ Petition is taken up for disposal.

<https://hcservices.ecourts.gov.in/hcservices/> 3. The petitioners 1, 3 to 7, who are a retired Sub Inspectors of Police, and 2nd petitioner who is a retired Special Sub Inspector of Police, seek for a direction to the respondents

to fix their seniority as per G.O.Ms.No.844, Home Department, dated 03.06.1997 and give notional promotion and consequent monetary benefits to them. According to the petitioners, some juniors were promoted to the rank of Deputy Superintendent of Police, by fixing the seniority, based on the said G.O., but their case was not considered by the respondents. In this regard, they have submitted a representation dated 1.4.2016 to the first respondent, which was not considered and disposed of till date. Hence they have come forward with this Writ Petition.

4. Identical cases came up for consideration before this Court in a batch of cases in W.P.Nos.16728 of 2012, etc. batch, this Court, after hearing the learned counsel for the parties, disposed of the writ petitions by a common order dated 03.07.2012. The operative portion of the order reads as follows :-

"4. According to the petitioners, based on the Government Orders issued in G.O.Ms.No.844, Home Department, dated 03.06.1997; G.O.Ms.No.13 Home (Police-V) Department, dated 06.01.2010; and the Government Letter dated 7.1.1988, upgradation was granted to 2589 Grade II Police Constables appointed on 1.1.1984 as Grade-I Police Constables with effect from 25.7.1995, instead of 22.7.1997 and further upgraded as Head Constables with effect from 22.7.2002, instead of 25.7.2000. The Government has also issued G.O.Ms.No.15 Home (Police -V) Department, dated 7.1.2010 delegating powers to the Superintendents of Police and Deputy Inspectors General of Police for granting promotion on completion of 10/5 years period in each individual case.

5. The petitioners have retired from service and they are claiming notional promotion and consequent monetary benefits. The said claims were rejected by the second respondent by the impugned orders which are challenged in these writ petitions.

6. Learned counsel for the petitioners submitted that similar issue was considered by this Court in W.P.Nos.23909, 23974 and 23975 of 2010 and an order was passed on 29.10.2010 granting relief to the similarly placed persons, even after retirement. The said order was passed based on the earlier Division Bench Judgment made in W.A.No.500 of 2008, dated 16.6.2008.

7. It is the contention of the petitioners that even though they are retired from service they are also entitled to get upgradation, atleast for the purpose of notional fixation and revision of

pension. The said submission is justified.

8. The learned Special Government Pleader submitted that for notional promotion and revision of pension, the respondents may be directed to reconsider the matter and pass fresh orders.

9. In the light of the said submission, respective impugned orders dated 3.6.2011, 7.6.2011, 11.4.2011, 18.4.2011, 21.4.2011 are set aside. The respondents are directed to reconsider the claim made by the petitioners, based on the Government Orders referred to above, bearing-in-mind the earlier orders and pass fresh orders. Necessary orders are directed to be passed within a period of four months from the date of receipt of a copy of this order."

5. It is seen that the above referred order was passed based on the order passed in a batch of writ petitions in W.P.No.23909 of 2010, etc. dated 29.10.2010 and the said order was passed based on the earlier Division Bench judgment in W.A.No.500 of 2008, dated 16.06.2008. It appears that the benefits have already been extended to those petitioners.

6. The learned Additional Government Pleader submitted that the petitioners retired from service long back and therefore, at this stage, such benefits cannot be extended by granting notional promotion to them.

7. It is seen that even in the earlier batch of cases, all the petitioners were retired long back and thereafter, approached the Court for the relief requesting that their national promotion, along with monetary benefits, has to be done in accordance with G.O.Ms.No.844, Home Department, dated 03.06.1997 and G.O.Ms.No.15, Home (Police-V) Department, dated 07.01.2010. Therefore, the contention that the petitioners have approached this Court after retirement cannot be put against them. It is further seen that in the earlier orders, referred to supra, those petitioners had retired on different dates from 2003 to 2010 and approached this Court in 2012 and they were granted relief. Hence, the petitioner also has to be treated on par with those petitioners.

8. It is submitted by the learned counsel for the petitioner that in respect of other similarly placed persons, viz., B.Thangappandian, S.Micheal Anthony and R.Paul Durai, Deputy Inspector general of Police, Tirunelveli Range, has passed orders on 27.3.2015, implementing the orders passed by this Court, after the Special Leave Petitions which were filed against those orders were dismissed.

9. Accordingly, there will be a direction to the second respondent to consider the petitioner's representation dated 1.4.2016, in the light of the orders passed in W.A.No.500 of

2008, dated 16.06.2008; W.P.Nos.23909 of 2010, etc. batch, dated 29.10.2010 and W.P.(MD).Nos.16728 of 2012, etc. batch, dated 03.07.2012 and pass orders bearing in mind the Government Orders in G.O.Ms.No.844, Home Department, dated 3.6.1997, within a period of three months from the date of receipt of a copy of this order.

10. This writ petition is accordingly disposed of. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1 The Home Secretary to Government
Fort St. George
Chennai-600 009.

2 The Director General of Police
Kamarajar Salai Mylapore Chennai-600 004.

3 The Deputy Inspector
General of Police Post Box No.601 Dr.Radha
Krishnan Salai Mylapore Chennai-600 004.

1 cc to Mr.K.Karthikeyan, Advocate, sr.39451

1 cc to Government Pleader, sr.39331

सत्यमेव जयते

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