

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.09.2016

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THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.33051 of 2016

K.Ramaswamy

... Petitioner

Vs.

1 The State of Tamil Nadu
Rep. by its Secretary to Government
Home (Pol-1A) Department,
Fort St. George, Chennai – 600 009.

2 The Additional Director General of Police Administration
Office of The Director General of Police, Mylapore,
Chennai-600 004.

3 The Superintendent of Police
Tiruppur District.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the first respondent to consider the representation of the petitioner dated 05.09.2016 regarding promoting him to the post of Additional Superintendent of Police and pass appropriate orders.

For Petitioner : Mr.S.Selvathirumurugan
For Respondents : Mr.A.Zakir Hussain
Government Advocate

O R D E R

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

2.The present writ petition has been filed seeking a Mandamus directing the first respondent to consider the representation of the petitioner dated 05.09.2016 regarding promotion to the post of Additional Superintendent of Police and to pass appropriate orders.

3.The petitioner was selected for appointment to the post of Sub-Inspector of Police on merits by direct recruitment and he joined the service on 28.09.1987. He was promoted as Inspector of Police vide proceedings dated 27.11.1997 and joined in the said post on 01.12.1997. Thereafter, he was promoted as Deputy Superintendent of Police and is discharging his duties as Deputy Superintendent of Police in a diligent and prudent manner to the satisfaction of the superiors. Whiles, on 02.03.2016 he was issued with a charge memo in Na.Ka.No.F1/PR24/2016/Tirupur under Rule 17(b) of the Tamil Nadu Civil Services (D & A) Rules by the Superintendent of Police, Tirupur.

4.The charge memo has been issued to the petitioner on the verge of his promotion as Additional Superintendent of Police and that too when he is attaining the age of superannuation on 31.08.2017. The charge memo levelled single charge against the petitioner which is as follows:

""A FIR was registered in Crime No.257 of

2001 under Sections 279 and 304A IPC on the complaint of one Panjalingam stating that one Kaleeswaran died in a fatal accident whence a 407 Van bearing No.TN419746 dashed against the TVS Moped driven by the deceased Kaleeswaran at Pollachi Main Road near Polarpettai at Evening 3.00 PM on 30.04.2001 and you as an Investigating Officer while investigating the said case instead of finding the correct vehicle you have included a vehicle bearing registration no.TN33 X 2747 as driven by one Govindaraj in the case of violation of law so as to enable the family members of the deceased Kaleeswaran to get compensation from the insurance company and thereby you have failed to discharge your duty by not conducting investigation fully thereby violating Rule 20(1) of Tamilnadu Government Servants conduct Rules 1973."''

5.In Annexure 2 to the charge memo statement of allegations are given and it is further stated that the family members of the deceased Kaleeswaran moved the learned Subordinate Court Udumalpet in MCOP No.382 of 2001 claiming a compensation of

Rs.10,00,000/- and the National Insurance Company was directed to pay a compensation of Rs.4,95,000/-. The National Insurance Company paid Rs.1,50,000/- and the rest of the amount has been deposited in the Court.

6.The National Insurance Company on suspicion, nominated a Special Enquiry Officer to enquire into the matter and apart from that the National Insurance Company also lodged a complaint of false insurance claim and a case in Crime No.15 of 2006 under sections 120 B and 420 I.P.C. on the file of the District Crime Branch, Coimbatore and charge sheet was also filed before the learned Chief Judicial Magistrate, Coimbatore in C.C.No.205 of 2011 and ultimately, in the calender case, the petitioner was acquitted and after nearly six years, the present charge memo has been issued. Hence, the petitioner filed W.P.No.15417 of 2016 before this Court challenging the charge memo dated 02.03.2016 and this Court granted interim order on 26.04.2016.

7.After granting of the interim order by this Court, the second respondent had sent a letter in D.O.Letter No.120947/GB VII (3)/2015 dated 06.06.2016 to the first respondent stating that the petitioner's name has been deferred due to the pendency of the charge memo. Hence, the petitioner made a representation on 05.09.2016 to the first

respondent regarding promotion to the post of Additional Superintendent of Police and since the said representation has not been considered so far, came forward with this writ petition.

8. Heard the submissions of the learned counsel appearing for the petitioner and the learned Government Advocate who takes notice for the respondents.

9. Considering the submissions made on either side and without going into the merits of the claim made by the petitioner, this Court directs the first respondent to consider the representation of the petitioner dated 05.09.2016 and pass appropriate orders, purely on merits and in accordance with law, within a period of six weeks from the date of receipt of a copy of this order.

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

21.09.2016

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Index: Yes/ No

Internet: Yes/ No

Note: Issue order copy on 23.09.2016

R.SUBBIAH,J.

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To

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