

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.10.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.35251 of 2016

D.Jeevaraj Metha

... Petitioner

Vs.

1 The Director General of Police
Tamil Nadu,
Chennai-4.

2 The Commissioner of Police
Chennai Police Office
Vepery
Chennai-7.

... Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of mandamus directing the respondents herein to consider and pass orders on the petitioner's representation dated 29.8.2016 for retrospective promotion on par with juniors within a stipulated time as deemed fit and proper by this Honourable Court.

For Petitioner : Mr.Ravi Shanmugam
For Respondents : Mr.C.Jagadish
Spl. Govt. Pleader.

ORDER

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

2. The petitioner has come up with the present writ petition for a mandamus, directing the respondents herein to consider and pass orders on his representation dated 29.8.2016 for retrospective promotion on par with juniors within a stipulated time.

3. The case of the petitioner, in brief, is as

follows:-

(a) The petitioner joined service as Grade-II Police Constable on 25.10.1984 in Armed Reserve, Chennai. Further, he was promoted as Grade-I Constable on 19.10.1992. While so, on 25.12.1995, he was placed under suspension on the ground that a complaint in Cr.No.729 of 1995 of Acharapakkam Police Station under Sections 419, 395, 397 and 363 I.P.C. was pending investigation. While he was under suspension, his juniors were promoted as Head Constables on 22.1.1998.

(b) Subsequently, charge sheet was filed in the said complaint, and it was taken on file as S.C.No.65 of 199 and after trial, the petitioner was convicted and sentenced to undergo five years rigorous imprisonment, consequent to which, he was dismissed from service and on appeal in C.A.No.67 of 2000, the said conviction and sentence were reversed. Thereafter, he filed OA No.2447 of 2003 before the Tamil Nadu Administrative Tribunal and the Tribunal, by order dated 21.7.2003, ordered reinstatement and the same was challenged before this Court by filing W.P.No.33519 of 2003 and the Division Bench of Court dismissed the said writ petition confirming the order of the Tribunal. However, the petitioner was unnecessarily kept out of employment without any basis from 21.1.2003 to 2.5.2005. Only on 2.5.2005, the second respondent reinstated him into service. Thereafter, the appeal filed by the Inspector of Police, Acharapakkam Police Station in C.A.No.1081 of 2003 before this Court was also dismissed on 13.7.2010 confirming the acquittal granted on 21.1.2003.

(c) As per the Fundamental Rule, 54, the suspension period and out of employment period should be treated as duty for all purposes on being exonerated by the competent Court. Though the petitioner was acquitted as early as on 21.1.2003, his suspension period and out of employment period were not treated as duty. In the meanwhile, in C.P.O.No.305 of 2011 dated 2.2.2012, the Deputy Commissioner of Police, Motor Transport, Chennai passed an order stating that the period of suspension from 25.12.1995 to 24.12.2002 and out of employment period from 25.12.2002 to 9.5.2005 is ordered to be treated as duty for all purposes as per FR.54. Consequent to that, the petitioner should have been given his due seniority as Head Constable from 1998 and Sub Inspector of Police from 2004 on par with his batch-mates. In this regard, he sent a representation dated 29.8.2016 to the respondents. Since the same was not considered so far, left with no other alternative, the petitioner has come up with the present writ petition for the relief set out earlier.

4. I have heard the learned counsel appearing for the petitioner and the learned Special Government Pleader, who has taken notice on behalf of the respondents.

5. Considering the facts and circumstances of the case and considering the submissions made on either side, without going into the merits of the claim projected by the petitioner, this Court directs the respondents to consider the representation of the petitioner dated 29.8.2016 seeking retrospective promotion on par with juniors, and pass appropriate orders, on merits and in accordance with law, within a period of six weeks from the date of receipt of a copy of this order. The writ petition is disposed of accordingly. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

sbi

To

1 The Director General of Police
Tamil Nadu,
Chennai-4.

2 The Commissioner of Police
Chennai Police Office
Vepery, Chennai-7.

+1cc to Mr. Ravi, Advocate, S.R.No. 57264

ssk (CO)
md (9/11/2016)

W.P.No.35251 of 2016

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