

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.02.2016

CORAM:

THE HONOURABLE MR. JUSTICE T.RAJA

Writ Petition No.3566 of 2016

and

WMP No.2932 of 2016

N.Mohanan

.. Petitioner

vs.

- 1.The State of Tamil Nadu
rep. by its Secretary to Government,
Home Department,
Fort St.George,
Chennai - 600 009.
 - 2.The Director General of Police,
Kamarajar Salai, Mylapore,
Chennai - 600 004.
 - 3.The Commissioner of Police,
Greater Chennai City,
Vepery, Chennai - 600 007.
- .. Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order of the third respondent passed in the proceeding in Na.Ka.No.Pa.Pe2(1)/280/43256/2015 dated 22.12.2015 and quash the same and directing the respondents herein to upgrade the post of petitioner as Grade-I Police Constable/Head Constable/Special Sub Inspector of Police notionally giving monetary benefits in view of G.O.Ms.No.844 Home Department, dated 3.6.1997, G.O.Ms.No.937, Home Department, dated 21.7.1998 and G.O.Ms.No.15 Home Department, dated 7.1.2010 herein in the light of the Judgments rendered by this Court in W.P.(MD)No.2989/2011, 2888/2011 order dated 27.6.2011 and W.P.(MD)No.4864/2011 order dated 27.4.2011 and consequently revise his pension and grant him all consequential benefits.

For petitioner : Mr.V.Karnan

For respondents : Mr.A.Kumar

Special Government Pleader

ORDER

Mr.A.Kumar, learned Special Government Pleader takes notice for the respondents.

2. This Writ Petition has been filed by a retired Police Personnel seeking for a Writ of Certiorarified Mandamus to call for the records relating to the impugned order of the third respondent passed in the proceeding in Na.Ka.No.Pa.Pe2(1)/280/43256/2015 dated 22.12.2015 and quash the same and to direct the respondents herein to upgrade the post of petitioner as Grade-I Police Constable/Head Constable/Special Sub Inspector of Police notionally giving monetary benefits in view of G.O.Ms.No.844 Home Department, dated 3.6.1997, G.O.Ms.No.937, Home Department, dated 21.7.1998 and G.O.Ms.No.15 Home Department, dated 7.1.2010 herein in the light of the Judgments rendered by this Court in W.P.(MD)No.2989/2011, 2888/2011 order dated 27.6.2011 and W.P.(MD)No.4864/2011 order dated 27.4.2011 and consequently revise his pension and grant him all consequential benefits.

3. The learned counsel appearing for the petitioner would submit that the petitioner was appointed as Grade II Police Constable in the Tamil Nadu Police Subordinate Services on 5.1.1971 and he should have been promoted on 5.1.1981 as Grade I Police Constable i.e. on completion of ten years but, he was actually promoted as Grade I Police Constable on 5.3.1993. Thereafter, he was promoted as Head Constable on 8.1.1998, however, he should have been promoted as Head Constable on 5.1.1986 itself i.e. on completion of five years, and thereafter, he was promoted as Sub Inspector of Police on 3.8.2007 but he should have been promoted as Sub-Inspector of Police on 5.1.1996. Adding further, the learned counsel for the petitioner would submit that the respondents have not followed the principles and rules thereof in fixing the seniority of the petitioner. Having the wrong seniority fixed by the respondents, the petitioner could not get promotion on the due dates. In this regard, he would submit that the petitioner has made a representation mentioning all those facts to the respondents and the same was rejected by the third respondent by the present impugned order. Adding further, he would submit that in similar circumstances, Madurai Bench in W.P.(MD)Nos.2988, 2989 dated 27.6.2011 and W.P.(MD)No.4864 of 2011 dated 27.4.2011, granted the benefits to the petitioners therein and therefore, he prays that the benefit of the said judgment may be extended to the present petitioner also.

4. On the other hand, the learned Special Government Pleader would submit that the issue raised in the present Writ Petition has been once and for all decided by this Court in W.P.No.22240 of 2015 by order dated 23.7.2015 in the case of M.Vadivelu vs. Deputy Inspector General of Police, Kancheepuram Range and two others, and the Writ Petition was dismissed with an observation that even on completion of ten years/five years/ten years, one cannot seek automatic upgradation as Grade I Constable/Head Constable/Special Sub-Inspector of Police, respectively, since if any disciplinary proceedings are pending, the upgradation would be deferred.

5. As the learned Special Government Pleader has submitted that the issue raised in the present Writ Petition is covered by the order dated 23.7.2015 passed in W.P.No.22240 of 2015, it is relevant to extract the relevant portion of the order:-

"9. In this case, the petitioner was upgraded as Grade I Police Constable in 1991 and thereafter, he was upgraded as Head Constable on 28.7.1998. Since the petitioner did not complete ten years of service as head Constable he was not further granted upgradation as Special Sub-Inspector of Police.

10. Even on completion of ten years/five years/ten years, one cannot seek automatic upgradation as Grade I Constable/Head Constable/Special Sub-Inspector of Police, respectively, since if any disciplinary proceedings are pending, the upgradation would be deferred.

11. In the Judgements, relied on by the petitioner, it was not held that the Government Orders referred to by the petitioner provides for retrospective upgradation.

12. Accordingly, the Writ Petition fails and the same is dismissed. No order as to costs."

6. A close reading of the aforesaid observations would clearly show that the issue is no longer res-integra and the contention of the writ petitioner deserves to be rejected. In view of the said order, there is no merit in the Writ Petition and the same fails. Hence, the Writ Petition is dismissed. No costs. The connected Miscellaneous Petition is closed.

सत्यमेव जयते

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

asvm

To

1.The Secretary to Government,
The State of Tamil Nadu
Home Department,
Fort St.George,
Chennai - 600 009.

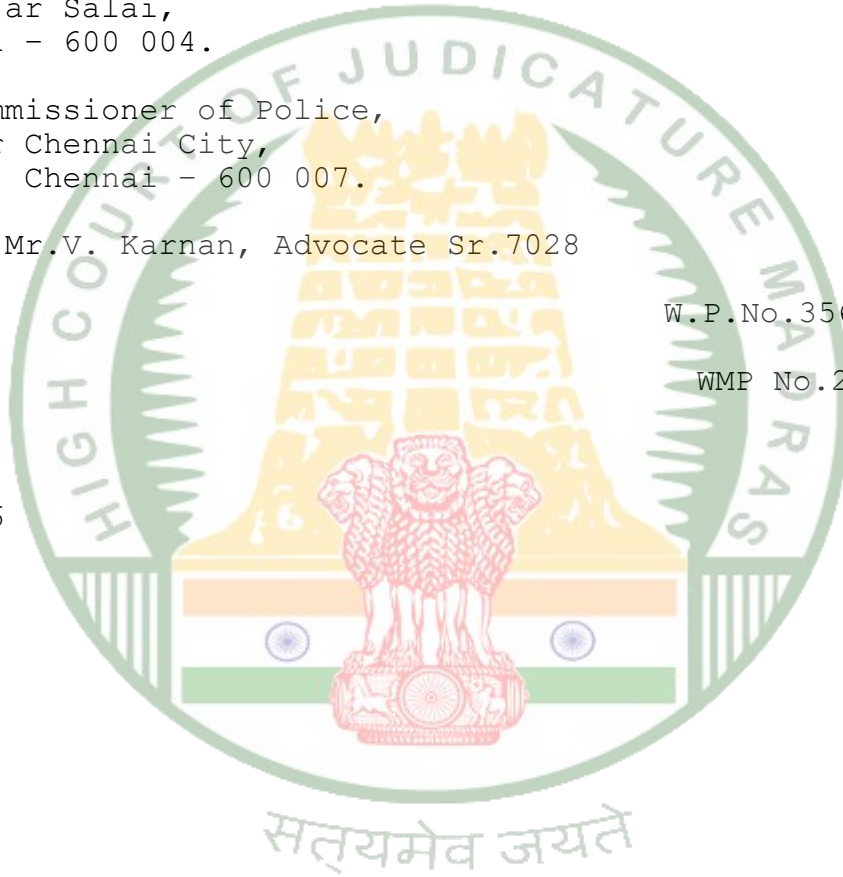
2.The Director General of Police,
Kamarajar Salai,
Chennai - 600 004.

3. The Commissioner of Police,
Greater Chennai City,
Vepery, Chennai - 600 007.

+ 1 cc to Mr.V. Karnan, Advocate Sr.7028

W.P.No.3566 of 2016
and
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