

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.11.2016

CORAM:

THE HONOURABLE MR. JUSTICE R.SUBBIAH

W.P.No.38144 of 2016

Thirunavukarasu

... Petitioner

Vs.

1. The Secretary to Government,
Home (Police II) Department,
Fort St. George,
Chennai 600 009.

2. The Director General of Police,
Dr. Radhakrishnan Salai,
Mylapore, Chennai 600 004.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus directing the respondents to consider the claim of the petitioner for promotion as Inspector of Police by including his name in the 'C' list of Sub-Inspector of Police fit for promotion as Inspector of Police for the year 2010-11 published in Rc.No.111/NGB V(1)/P-38/C-List-2011-9, dated 27.01.2011 on par with his junior and promote him as Inspector of Police and grant him all consequential service and monetary benefits.

For Petitioner : Mr.M.Muthappan

For Respondents : Mr.K.Dhananjayan
Special Government Pleader

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O R D E R

The petitioner has come up with this Writ Petition seeking a direction to the respondents to consider his claim for promotion as Inspector of Police by including his name in the 'C' list of Sub-Inspector of Police fit for promotion as Inspector of Police for the year 2010-11 published in Rc.No.111/NGB V(1)/P-38/C-List-2011-9, dated 27.01.2011 on par with his junior and grant him all consequential service and monetary benefits.

2. According to the petitioner, he entered the services of the Police Department as a directly recruited Sub-Inspector of Police on 16.04.1999 through a selection conducted by the Recruitment Board. He successfully completed

his probation and his name was included in the 'A' list and he has received more than 50 rewards. He attained sufficient seniority and merit for consideration of his claim for promotion by including his name in the 'C' list of Sub-Inspector of Police fit for promotion as Inspector of Police for the year 2010-11. The crucial date for preparation of the panel was 01.06.2010. When the 'C' list was published on 27.01.2011, the petitioner's name was not included, whereas, the petitioner's junior viz. Sangu (Seniority No.23) was included in Serial No.21 and he was promoted as Inspector of Police and the petitioner's senior Sivakumar (Seniority No.231) was also promoted. The petitioner was not informed the reason for denial of his promotion.

3. Thereafter, the petitioner had reason to believe that his claim for promotion has been deferred on the ground that he is facing a criminal case registered in Crime No.3/2008 on the file of V & AC, Special Investigation Cell, Chennai - 28. The petitioner, while serving as Sub-Inspector of Police, Kanagamma Chatiram Police Station from 01.02.2008 to 29.08.2008 was falsely implicated in a criminal case registered in Crime No.3/2008 on the file of the V & AC Special Investigation Cell, Chennai - 28 for an allegation that he demanded a sum of Rs.3,000/- for the return of the vehicle from the defacto complainant, Babu and accepted the same. Based on a trap organized by V & AC, on the complaint of the defacto complainant, Babu, the petitioner was arrested on 28.08.2008 by the Vigilance Officials and released on his own bond.

4. Pursuant thereto, the petitioner was placed under suspension on 29.08.2008 for having involved in a criminal case and he subsequently approached this Court and obtained an order of quashing the order of suspension and consequently, he was reinstated into service on 06.01.2013. When the petitioner was under suspension, his junior was promoted as Inspector of Police by including his name in the 'C' list of the year 2010-11, dated 27.01.2011. In the criminal case foisted against the petitioner, after investigation, a Charge Sheet was laid before the Special Judge and Chief Judicial Magistrate, Thiruvallur in Special Case No.11/2009. During the course of trial, the defacto complainant did not support the prosecution case and the accompanying witnesses totally gave a contradictory version, which made the Court to disbelieve the prosecution case and consequently, the petitioner was acquitted on merits, by an order dated 11.07.2016 made in Special Case No.11/2009. Hence, according to the petitioner, there is no impediment for the respondents to consider his claim for promotion as Inspector of Police on par with his junior. It is his further case that even if an appeal is preferred, it will not be a bar for consideration of his claim for promotion to the post of Inspector of Police for the 'C' list for the year 2010-2011. The petitioner made a detailed representation to the 2nd respondent on 11.08.2016, for which, there is no response. Hence, having no other alternative, he is before this Court.

5. When the matter is taken up for consideration, learned counsel for the petitioner submitted that the respondents may be directed to consider the petitioner's representation dated 11.08.2016.

6. In reply, learned Special Government Pleader submitted that the State Government has preferred an appeal against the order of acquittal and hence, the petitioner cannot seek a direction to the respondents to consider his claim.

7. Considering the facts and circumstances of the case, irrespective of the submissions made by the learned Special Government Pleader, this Court directs the respondents to consider the petitioner's representation dated 11.08.2016 seeking promotion on par with his junior, if there is no other legal impediment, and pass appropriate orders on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this order.

This Writ Petition is disposed of with the above direction. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To:

1. The Secretary to Government,
Home (Police II) Department,
Fort St. George,
Chennai 600 009.
2. The Director General of Police,
Dr. Radhakrishnan Salai,
Mylapore, Chennai 600 004.

+1cc to Mr.M.Muthappan, Advocate, S.R.No.66295
+1cc to the Government Pleader, S.R.No.65879

W.P.No.38144 of 2016

PK(CO)
CA(09/12/2016)