

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.38146 of 2016

G.Sai Ganesh

.. Petitioner

Vs.

1. State of Tamil Nadu, rep. by its
Secretary to Government,
Home (Police-III) Department,
The Secretariat, Chennai-9.

2. Director General of Police,
Dr.Radhakrishnan Road,
Mylapore, Chennai-4.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus to direct the second respondent to grant conversion to the petitioner from his present Category III/Battalion to Category I/Law and Order on par with his batch-mates appointed in the year 2008 with appropriate seniority within time frame.

For Petitioner : Mr.K.Ravi Anantha Padmanaban

For Respondents : Mr.R.Venkatesh, Govt. Advocate

ORDER

The petitioner has filed this Writ Petition praying for issuance of a Writ of Mandamus to direct the second respondent to grant conversion to the petitioner from his present Category III/Battalion to Category I/Law and Order, on par with his batch-mates appointed in the year 2008, with appropriate seniority within time frame.

2. It is the case of the petitioner that he is a direct recruit Sub-Inspector of Police belonging to the recruitment batch of the year 2006 and was appointed in January 2008. By tradition, the Department had been granting conversion or transfer to Sub-Inspectors of Police, who have completed five years of service in either Category-II/Armed Reserve or Category-III/Battalion, so as to enable them to enter into

Category-I/Law and Order. In the year 2013, all those appointed in 2008 became eligible for such conversion. In this regard, they have made representations, which were not considered. Hence, they have filed W.P.No.8982 of 2015 etc. batch, seeking such conversion. A Division Bench of this Court passed a common order directing the respondents to consider the request. It is further stated that by way of G.O.No.249, Home (Police-III) Department, dated 29.02.2016, the required conversion order was passed, as a result, about 514 Sub-Inspectors of Police are undergoing six months practical training, which will get completed in March 2017. In the proceedings of the second respondent-DGP, dated 31.07.2016, it is stated that where charge is pending or under contemplation, such Sub-Inspectors of Police would not be granted the said conversion.

3. It is the further case of the petitioner that his neighbours gave a complaint, on account of which, his father as A1, petitioner as A2 and his mother as A3, are facing the prosecution in C.C.No.348 of 2012 on the file of the Judicial Magistrate Court No.1, Poonamallee for the offences under Sections 406 and 420 IPC. No disciplinary proceedings have been initiated against the petitioner. It is the grievance of the petitioner that the Departmental communication states that subject to the outcome of the prosecution, it will be decided in future, whether to initiate PR against the petitioner or not. For this reason, the petitioner had not been granted the conversion. It is the further case of the petitioner that once in three years, there is a general transfer in the Police Department and on such occasions, even those facing prosecution and disciplinary proceedings, are transferred. Hence, the concept of conversion or inter-departmental transfer is not new and the salary for all categories is one and the same and hence, no additional financial burden is involved. In spite of the same, on the ground of facing the prosecution, the second respondent denied such conversion to the petitioner. The petitioner has also sent representation, dated 01.10.2016 to the respondents seeking for the said relief of conversion. As the same is still pending, the petitioner has filed this Writ Petition for the relief stated above.

4. When the Writ Petition is taken up for consideration, learned counsel for the petitioner submitted that the petitioner's father, who is also in the same Police Department and who is also facing the criminal prosecution, had been promoted from the post of Head Constable to the post of Sub-Inspector of Police in Law and Order, vide proceedings, dated 18.08.2016. When that being so, the petitioner is only asking for conversion, which may be considered by the respondents. Hence, the learned counsel for the petitioner prayed for

allowing the Writ Petition.

5. Heard the learned Government Advocate appearing for the respondents and perused the materials available on record.

6. Learned counsel for the petitioner also brought to the notice of this Court that in identical circumstances, the second respondent had granted the prayer of conversion to one K.P.Manikumar, Sub-Inspector of Police, Armed Reserve, Trichy District, by proceedings dated 04.08.2016 in R.C.No.121787/AP 2 (1)/2016 and by proceedings dated 08.08.2016 in Rc.No.28935/Rect.II(1)/2016. Hence, the learned counsel for the petitioner submitted that as the petitioner herein is also placed in similar footing, he may be granted the said relief of conversion.

7. Considering the submissions made on either side, without going into the merits of the case, this Court directs the petitioner to give a copy of the said representation, dated 01.10.2016 to the respondents, along with a copy of this order, within a period of two weeks from the date of receipt of a copy of this order, and on receipt of the copy of the said representation, the respondents are directed to consider the said representation of the petitioner, dated 01.10.2016 and pass appropriate orders, on merits and in accordance with law, with regard to the prayer of the petitioner seeking the above said conversion, in the light of the said proceedings of the second respondent, dated 04.08.2016 in R.C.No.121787/AP 2(1)/2016 and by proceedings dated 08.08.2016 in Rc.No.28935/Rect.II(1)/2016, in respect of one K.P.Manikumar, Sub-Inspector of Police, Armed Reserve, Trichy District, within a period of four weeks from the date of receipt of the copy of the said representation from the petitioner.

8. With the above observations and directions, the Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

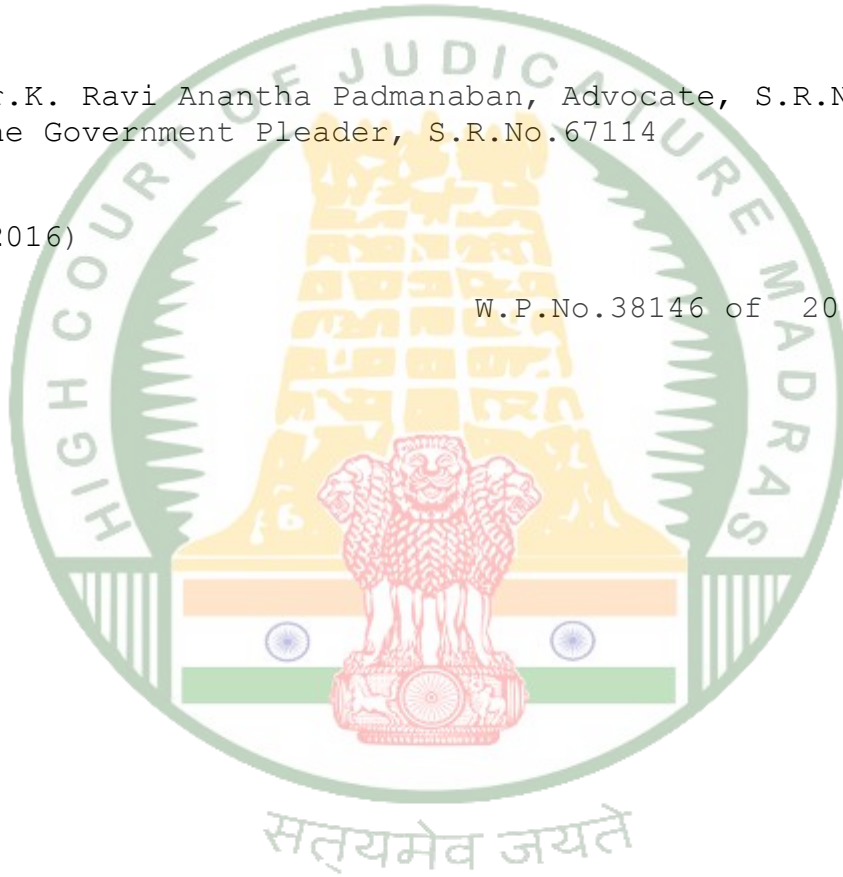
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1. The Secretary to Government,
Home (Police-III) Department,
The Secretariat, Chennai-9.
2. The Director General of Police,
Dr.Radhakrishnan Road,
Mylapore, Chennai-4.

+1cc to Mr.K. Ravi Anantha Padmanaban, Advocate, S.R.No.67374
+1cc to the Government Pleader, S.R.No.67114

GJII(CO)
md(30/11/2016)

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