



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.03.2016

CORAM :

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

WEB COPY

Writ Petition (MD) No.2836 of 2015

and

M.P(MD)No.1 of 2015

P.Sankarapandi

... Petitioner

Vs.

1.The Deputy Inspector General of Police,
Tirunelveli Range,
Tirunelveli.

2.The Commissioner of Police,
Tirunelveli City,
Tirunelveli.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records in pursuant to the impugned order passed by the 2nd respondent in RC.No.A1/21189/2014 dated 13.02.2015 and quash the same and consequentially direct the respondents to promote the petitioner as Special Sub-Inspector of Police in Tirunelveli District retrospectively with effect from the date on which his immediate junior was promoted to the post of special Sub-Inspector of Police with arrears of pay.

For Petitioner

: Mr.M.Saravanakumar

For Respondents

: Mrs.S.Bharathy,

Government Advocate.

ORDER

The petitioner was appointed as Grade II Police Constable on 17.11.2008 and has promoted to the post of Grade I, Police Constable on 01.12.2013. He has completed 10 years in the category of Head Constable. According to him, in accordance with the orders issued in G.O.Ms.No.15 Home (Pol.V) Department, dated 07.01.2010, he is entitled for appointment to the post of Special Sub Inspector of Police with effect from 01.12.2013. However, the same was denied to him as he was trapped in one of the cases by the Vigilance and Anti Corruption authorities which was registered in Crime No.12 of 2009 under Sections 109 and 120(B) of the Indian Penal Code. In view of the criminal case is pending, the second respondent had passed the impugned order stating that after the disposal of the said case, the request of the petitioner would be considered. Therefore, the petitioner has not upgraded as Special Sub-Inspector of Police with effect from 01.12.2013 on par with his batchmates as per the above referred Government Order. Aggrieved over the same, the present writ petition has been filed.



2.The second respondent has filed counter affidavit wherein in paragraph 9, it is specifically admitted that one Mohammed Khan who suffered a criminal complaint was promoted after getting an affidavit of undertaking from him to the effect that the promotion would be subject to the result of the criminal case. The petitioner herein is also seeking for the very same relief.

3.Learned Government Advocate appearing for the respondent is not disputing the same.

4.It is useful to refer to the relevant portion of the order of this Court in W.P.Nos.29999 and 30000 of 2010 and 1984 of 2011, dated 24.02.2011, hereunder:

"10. Yet another factor to be noted is that as far as promotions are concerned, when an individual's name is overlooked for four panels, his juniors might have been promoted overlooking him. Based on an allegation kept pending for more than seven years, whether the petitioners have to be forced to serve under their juniors also has to be looked into. Under such circumstances, if any punishment is imposed, they have to forego their promotion, but, only on an allegation, that is to say, on suspicion, this cannot be done. Consequently, I am of the considered opinion that the petitioners are entitled to get temporary promotion.

Consequently, the writ petitions are disposed of by directing the respondents to promote the petitioners as prayed for, however, after getting an affidavit of undertaking from them to the effect that in the event of their failure in the criminal case, they can be reverted to the lower post. Such exercise shall be done within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petitions are closed."

5. Following the same, this writ petition is disposed of, directing the respondents to promote the petitioner as prayed for, however, after getting an affidavit of undertaking from him to the effect that in the event of his failure in the criminal case, he can be reverted to the lower post. Such exercise shall be done within a period of six weeks from the date of receipt of a copy of this order. No costs. Consequently, M.P.(MD)No.1 of 2015 is closed.

Sd/-

Assistant Registrar(T&P)

/True copy/



sms
To

1.The Deputy Inspector General of Police,
Tirunelveli Range,
Tirunelveli.

2.The Commissioner of Police,
Tirunelveli City,
Tirunelveli.

+1 cc to Special Government Pleader, SR No.16700

+1 cc to Mr.M.Saravanakumar, Advocate, SR No.16111

RG.GSV-PM/AR-I 29.03.2016 3P/5C

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