

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.05.2017

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THE HONOURABLE MR.JUSTICE R.SUBRAMANIAM

W.P.No.6433 of 2017

And

W.M.P.Nos.6943 & 6944 of 2017

G.Saiganesh

... Petitioner

Vs.

1 The State of Tamilnadu
Rep by its Secretary to Government,
(Police-3) Department, The Secretariat,
Chennai-600 009.

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

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records on the file of the second respondent made in RE No.156589/Rect II(1) 2016 dated 25.11.2016 and quash the same and consequently direct the second respondent to grant conversion to the petitioner from his present category III/Battalion to category I/law and order and on for with his batch mates appointed in the year 2008.

For Petitioner : Mr.S.Sairaman

For Respondents : Mr.P.Sanjay Gandhi
Additional Government Pleader

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O R D E R

Challenging the rejection of the request for conversion from Tamil Nadu Special Police Battalion (Category-III) to Law and Order (Category-I), regular service in the Taluk Level, the petitioner has filed the present writ petition.

2. The only reason assigned by the second respondent for rejecting the request of the petitioner is that a criminal case is pending against the petitioner. It appears that the criminal

case is for the offence under Sections 406 and 420 of IPC and the petitioner's father who was also working in the police service as Head Constable, is cited as A1 and the petitioner is cited as A2 in the said criminal case. It is also seen from the records that the father of the petitioner, who was working as Head Constable, has been promoted as Sub Inspector and is service as on date.

3. Learned counsel for the petitioner would rely upon the judgment of the Division Bench of this Court in The Commissioner of Transport, Chepauk, Chennai-5 Vs. A.Afsalkhan in W.A.No.1764 of 2011 dated 26.06.2012 wherein it was held that the pendency of the criminal case cannot stand in the way of the petitioner being promoted subject to the result of the criminal case. In fact, when the petitioner's father, who is the first accused in the criminal case, was given the promotion, there should be no impediment in accepting the request for transfer made by the petitioner. The criminal case also does not relate to any delinquency on the part of the petitioner relating to discharge of his official duties.

4. In view of the above, there will be a direction to the second respondent to grant transfer to the petitioner from the Tamil Nadu Special Police (Category III) to Law and Order (Category I) and the said exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order.

5. With the above direction, this writ petition is disposed of. No order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

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To

1 The Secretary to Government,
(Police-3) Department, The Secretariat,
Chennai-600 009.

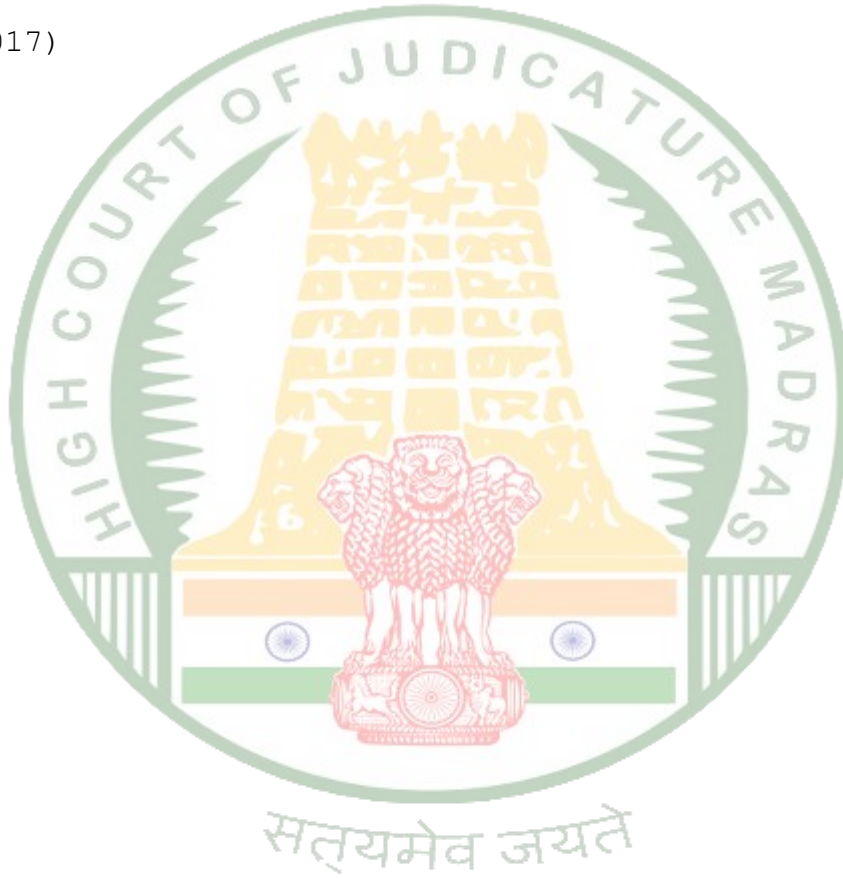
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2 The Director General of Police,
Dr. Radhakrishnan Salai,
Mylapore, Chennai-600 004.

+1cc to Mr.S.Sairaman, Advocate Sr. 37634

W.P.No.6433 of 2017
and
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RJ (CO)
VR(19/5/2017)



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