IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 13.04.2017

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THE HONOURABLE MR.JUSTICE **T.RAJA**

W.P. No.8944 of 2017

M.Sankar .. Petitioner

-vs-

1.The Director General of Police,
Tamil Nadu, Chennai 600 004.

2.The Deputy Inspector General of Police,
Salem Range, Salem.

3.The Superintendent of Police,
Dharmapuri District, Dharmapuri.

4.The Superintendent of Police,
Krishnagiri District, Krishnagiri. ... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a writ of mandamus directing the respondents 1 to 4 to upgrade the petitioner to the post of Head Constable and Special Sub Inspector with effect from 01.12.2005 and 01.12.2015 respectively, notwithstanding and without reference to the pending disciplinary proceedings in PR. No.26/M2/2002 dated 25.02.2002 of the third respondent, by considering the representation dated 01.07.2016 of the petitioner in the light of the judgment of the Hon'ble Supreme Court reported in 1995 (2) SCC 570.

For Petitioner : Mr.D.Baskar

For Respondents : Mr.T.M.Pappiah,
Special Government Pleader

O R D E R

This writ petition has been filed by the petitioner seeking a direction to the respondents to upgrade him to the post of Head Constable and Special Sub Inspector with effect from 01.12.2005 and 01.12.2015 respectively, notwithstanding and without reference to the pending disciplinary proceedings in PR. No.26/M2/2002 dated 25.02.2002 passed by the third respondent, by considering his representation dated 01.07.2016 in the light of the judgment of the Hon'ble Supreme Court reported in 1995 (2) SCC 570.

2.Learned counsel for the petitioner would submit that the petitioner was appointed as Grade II Police Constable on 17.11.1988 and he was promoted as Grade I Police Constable on 14.12.2000. While so, disciplinary proceedings have been initiated by the Superintendent of Police, Dharmapuri/the third respondent herein against the petitioner vide P.R. No.26/M2/2002 dated 25.02.2002 under Rule 3(b) of the Tamil Nadu Police Subordinate Service (D&A) Rules. Due to the same, his further promotion has been postponed while his juniors are getting promotion. This being the position, on the basis of complaint made by a relative of his wife, a case was registered in Crime No.19 of 2002 before the Nagarasampatty Police Station for the offences under Sections 363, 366, 417 and 376 r/w.90 IPC and

subsequently, he was placed under suspension. Aggrieved over the same, the petitioner has filed an Original Application No.4231 of 2002 before the Tamil Nadu Administrative Tribunal and based on the orders of the Tribunal, his suspension was revoked on 01.10.2002 and he was re-instated in service. He would further submit that since the criminal case registered against him was ended in acquittal by judgment dated 20.10.2003 in S.C. No.103/2003 on the file of the Chief Judicial Magistrate-I, Krishnagiri rendering a finding that he was not found guilty of the charge framed against him and no appeal was filed by the department, denying the petitioner from being considered for further promotion on the sole reason that the charges initiated against the petitioner under Rule 3(b) of the Tamil Nadu Police Subordinate Service (D&A) Rules is pending, is not fair on the part of the respondents.

3.But this Court hardly finds any substance to entertain this petition. The reason is that though the petitioner was acquitted from the criminal case by judgment dated 20.10.2003 in S.C. No.103/2003 on the file of the Chief Judicial Magistrate-I, Krishnagiri, he has to face the charges made under Rule 3(b) of the Tamil Nadu Police Subordinate Service (D&A) Rules before the departmental proceedings, which are pending against him. Hence, the petitioner cannot come to

T.RAJA,J.

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this Court seeking such a direction to the respondents to grant further promotions. Accordingly, this writ petition is dismissed. No costs.

4.It is for the respondents to complete the disciplinary proceedings and pass final orders expeditiously.

13.04.2017

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To

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2.The Deputy Inspector General of Police,
Salem Range, Salem.

3.The Superintendent of Police,
Dharmapuri District, Dharmapuri.

4.The Superintendent of Police,
Krishnagiri District, Krishnagiri.

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