

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.10.2017

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THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.3281 of 2014

K.Gopal
Petitioner

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Vs

1. The Government of Tamil Nadu
Rep.by Secretary to Government
Home Department
Fort St.George, Chennai - 600 009.
2. The Director General of Police
Kamarajar Salai,
Mylapore, Chennai - 600 004.
3. The Commissioner of Police
Greater Chennai Police
Egmore, Chennai - 600 006.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the Impugned Order of the 3rd respondent in Order RC No Estt III (1)/640/123172/2012 dated 12.11.2012 and quash the same and direct the respondents to grant to the petitioner notional advance upgradation to the post of Head Constable as per the provisions in G.O.Ms.No.1681, Home (Police-V) Department, dated 12.10.1992 and with effect from the date of completion of five years in the post of Police Constable Grade-I and consequently grant upgradation to the post of Special Sub-Inspector in accordance with the provisions contained in G.O.Ms.No.937, Home (Police III) Department, dated 21.7.1998 and grant him all attendant benefits.

For Petitioner : Mr.T.N.Sugesh
For Respondents : Ms.K.Bhuvaneswari
Government Advocate

O R D E R

The relief sought for in this writ petition is to quash the order of rejection dated 12.11.2012 issued by the third

respondent and for further direction to grant notional advance upgradation to the post of Head Constable as per the provisions in G.O.Ms.No.1681, Home (Police-V) Department, dated 12.10.1992 and thereafter to the post of Special Sub-Inspector in accordance with the provisions contained in G.O.Ms.No.937, Home (Police III) Department, dated 21.7.1998.

2.The learned counsel appearing for the writ petitioner made a submission that the writ petitioner was holding the post of Head Constable in Greater Chennai Police, Chennai and retired from service on attaining the age of superannuation on 31.01.2006. The petitioner was initially appointed on 14.11.1967 and thereafter, he was upgraded to the post of Police Constable Grade-I on 01.11.1980. Finally, he was promoted to the post of Head Constable with effect from 15.09.1995. The claim of the writ petitioner is that the Government issued orders granting the benefit of upgradation to the Head Constables, who served for the long tenure of 10 years. The writ petitioner has been denied the benefit of upgradation in accordance with the said Government Orders.

3.However, the orders impugned state that the benefit of the Government Order cannot be extended to the writ petitioner. In view of the fact that the Government granted the benefit of upgradation only with prospective effect, the writ petitioner cannot be granted with the benefit of upgradation as per the Government Orders cited above. At the outset, it has to be observed that the upgradation was granted prospectively by the Government from the date of issuance of the Government Orders and therefore, the writ petitioner was not eligible for upgradation.

4. Apart from the above fact, this Court is of the view that the writ petitioner was allowed to retire from service on attaining the age of superannuation on 31.01.2006 itself and he has not made any attempt to redress his grievances with regard to service at the relevant point of time, while he was in service. The writ petitioner earlier filed W.P.No.19828 of 2012 and this Court passed an order on 26.7.2012, directing the respondents therein to consider the representation submitted by the writ petitioner. Accordingly, the order of rejection which is impugned in the writ petition, was issued in proceedings dated 12.11.2012. Even that order was challenged through the present writ petition only on 27.1.2014. However, the writ petitioner retired from service on 31.01.2006 and the present writ petition is filed on 27.1.2014 and the earlier writ petition was filed in the year 2012 and the impugned order was also passed on 12.11.2012.

5.Thus, this Court cannot consider the benefit of promotion at this length of time, after a lapse of 9 years from the date of retirement of the writ petitioner. This apart, the writ petitioner has not set out his claim for upgradation, while he was in service or at least within the reasonable period from the date of retirement. Further, the Government order was passed with prospective effect and therefore, the reason stated in impugned order that the benefit of upgradation cannot be granted retrospectively, is also correct and there was no infirmity in the order of rejection passed by the respondents in the proceedings dated 12.11.2012.

6.Thus, the other grounds raised in this writ petition deserve no consideration. Accordingly, this writ petition stands dismissed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government
The Government of Tamil Nadu
Home Department
Fort St.George, Chennai - 600 009.

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

3. The Commissioner of Police
Greater Chennai Police
Egmore, Chennai - 600 006.

+1cc to Mr.T.N.Sugesh, Advocate SR. 71792

W.P.No.3281 of 2014

KS(CO)
VR(02/11/2017)