

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.07.2017

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WRIT PETITION No. 1681 of 2017

P.Ravi

... Petitioner

Vs.

1. The Principal Secretary to Government,
Home (Police 1A) Department,
Fort St George, Chennai - 600 009.

2. The Director General of Police,
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 of the 1st respondent in connection with the impugned order passed by him in letter No.55476/Pol.1A/2016-3 dated 07.12.2016 and quash the same and further direct the respondents to promote the petitioner as Additional Superintendent of Police in the estimated vacancy of the year 2015-16 by operating panel in the existing vacancy within reasonable time.

For Petitioner : Mr.S.Sivakumar

For Respondents : Mr.S.Gunasekaran
Additional Government Pleader

O R D E R

Pursuant to the orders of this Court on 26th September 2016 in W.P.No.27245 of 2016, the first respondent issued a letter dated 7th December 2016 informing the writ petitioner that his request to include his name in the panel of Deputy Superintendent of Police (Category-1) fit for promotion as Additional Superintendent of Police (Category-1) for the year 2015-16 is rejected. Hence, the present writ petition is filed.

2. The learned counsel appearing for the writ petitioner contended that though 29 posts of Additional Superintendent of Police was notified for promotion, the respondents had promoted

only 19 persons by filling up 19 posts and the remaining posts were kept vacant purposely to eliminate the writ petitioner from getting the opportunity of promotion.

3. The legal principle in this regard is that, consideration of an employee for promotion is a right of an employee, but promotion cannot be claimed as a matter of right, promotion can be claimed as a matter of right provided any junior to the petitioner is promoted to the higher post denying the right of promotion to the petitioner. In the absence of establishing the fact that any one of the juniors to the petitioner is posted to the higher position, the claim of the writ petitioner is not maintainable before this Court by way of writ petition.

4. Even in the order impugned, it is stated that the Government has approved the estimated vacancy for the post of Deputy Superintendent of Police (Category-1) fit for promotion as Additional Superintendent of Police (Category-1) for the year 2015-16 as 29 in number. The Director General of Police also through his letter dated 15th February 2016 sent proposal for preparation of temporary panel of Deputy Superintendent of Police (Category-1) fit for promotion as Additional Superintendent of Police (Category-1) for the year 2015-16. Further, it is informed to the writ petitioner that all the 29 Deputy Superintendent of Police who were suitable were examined by the Government and as the panel period from 02.06.2015 to 01.06.2016 was already expired, the Government decided to restrict the panel to the actual vacancy as per G.O.Ms.No.368 Personnel and Administrative Reforms Department, dated 18.10.1993. The actual vacancy for the panel of Deputy Superintendent of Police (Category-1) fit for promotion as Additional Superintendent of Police (Category-1) for the year 2015-16 was only 19 and accordingly, the Government issued orders in G.O.(Ms).No.676, Home (Police.1A) Department, dated 22.09.2016 by including 17 Deputy Superintendents of Police in the panel, since 2 Deputy Superintendents of Police had already retired from service on attaining the age of superannuation at the time of approval of the said panel for the year 2015-16.

5. The life of the panel is for one year and on expiry of the panel, the Government had decided to restrict the promotion to the actual existing vacancies. The decision taken is a policy decision and it is for the Government to decide how many vacancies to be filled up by way of promotion and the writ petitioner has no locus standi to question the policy decision taken by the Government in this regard. Admittedly, no junior to the writ petitioner was promoted to the post of Additional Superintendent of Police and therefore, the petitioner cannot be

considered as an aggrieved person and the writ petition is premature.

6. This Court is of the opinion that the writ petition is premature and misconceived and therefore, not inclined to consider the other grounds raised in this writ petition by the writ petitioner. Accordingly, the writ petition stands dismissed. However, there is no order as to costs.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

may

To

1. The Principal Secretary to Government,
Home (Police 1A) Department,
Fort St George, Chennai - 600 009.
2. The Director General of Police,
Mylapore, Chennai - 600 004.

+lcc to Mr.S.Sivakumar, Advocate Sr. 46642
+lcc to the Government Pleader,
High Court, Madras, Sr. 46562

W.P.No.1681 of 2017

SR(CO)
VR(17/07/2017)

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