

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.11.2017

CORAM

THE HONOURABLE Mr. JUSTICE T.RAJA

W.P.No.28070 of 2017 and

WMP No.30155 of 2017

R.Ashokkumar

.. Petitioner

Vs.

1.The Director General of Police,
Mylapore, Chennai - 600 004

2. Additional Director General of Police
(SCRB), Mylapore, Chennai - 600 004

3. Inspector General of Police (SCRB)
98, Santhome High Road,
R.A.Puram, Chennai - 600 028

4. A.Balaji
Senior Photographer, (SBCID)
O/o Director General of Police,
Chennai - 600 004

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records of the 2nd respondent dated 16.08.2017 made in Rc.No.A2/SCRB/1440/2017, quash the same and consequently direct the respondents herein to direct the respondents to give notional promotion to the petitioner as Senior Photographer with effect from 01.08.2014 in the retirement vacancy of M.Rajagopal.

For Petitioner : Mr.M.Gnanasekar

For Respondents: Mr.V.Jayaprakash Narayanan
Special Government Pleader

O R D E R

By consent, the main writ petition itself is taken up for final disposal.

2. The writ petition has been filed by R.Ashok kumar (who took voluntary retirement with effect from 31.03.2016) seeking promotion from 2014 onwards by quashing the impugned order dated 16.08.2017 passed by the Additional Director General of Police, Chennai.

3. Learned counsel appearing for the petitioner submitted that the petitioner joined the post of Junior Lab Assistant on 09.11.1988 in the Forensic Science Department, Chennai. The petitioner was further selected and appointed as Junior Photographic Assistant on 30.04.1991 and posted at Tamilnadu Finger Print Bureau, Chennai and again by an order dated 03.08.1995, he was promoted as Senior Photo Attendant. After three years, i.e., on 29.10.1998, he was given promotion as Photographer and joined duty on 16.11.1998 at District Police Office, Namakkal, Namakkal District. After some time, he was transferred from Namakkal to Tamilnadu Finger Print Bureau, Chennai on 17.06.1999 and subsequently, he was repatriated by an order dated 24.07.2007 and reposted at SBCID Head quarters, Chennai through SCRB, Chennai. In the meanwhile, since the petitioner was moved to the selected grade with effect from 16.11.1998, his pay was also fixed at selection grade, as per the orders dated 26.02.2009 passed by the Deputy Inspector General of Police, Chennai.

4. Continuing his arguments, learned counsel for the petitioner submitted that the petitioner later on suffered heart attack, which led to the detection of three blocks in his heart and he had undergone bypass grafting, in view of the same, he opted for voluntary retirement and subsequently, he was relieved from duty on 31.03.2016. However, prior to his voluntary retirement, A.Devan, M.Rajagopal, V.Santhanam, R.N.Vasudevan, and S.Chandrasekar, were retired as senior photographers from 30.07.2012, 31.07.2014, 31.12.2014, 31.07.2015 and 31.01.2016 respectively. The respondents deliberately failed to draw the panel for promotion and if they had prepared panel for promotion to the post of senior photographer prior to his retirement, the petitioner would have acquired promotion as Senior Photographer, which has not been done, however, due to ill problem, the petitioner was constrained to take voluntary retirement with effect from 31.03.2016, therefore, a direction should be given to consider the petitioner's promotion to the post of senior photographer with effect from 01.08.2014. Hence this Writ Petition.

5. Learned Special Government Pleader appearing for the respondents 1 to 3 submitted that there was no vacancy occurred and if any vacancy would have arisen, the petitioner, as per his seniority, would have been considered.

6. Heard both sides and perused the documents available on record.

7. A careful perusal of the documents placed before this Court would reveal that the petitioner has not made any application / representation either in the year 2014 or 2015 or prior to his voluntary retirement till 31.03.2016 seeking promotion to the available vacancies or any appeal to draw the panel for promotional post. Since the petitioner himself took voluntary retirement with effect from 31.03.2016, no documentary evidence has been placed before this Court to say that vacancies have arisen prior to his retirement, to which the petitioner is legally entitled.

8. It is to be relevantly pointed out that the petitioner has taken voluntary retirement from service on 31.03.2016 citing health grounds that he suffered heart attack and thereby three blocks were identified in his heart and thereafter, he undergone artery bypass grafting, therefore, as I mentioned above, when the petitioner has not even made any representation to fill up the promotional post that arose prior to his date of voluntary retirement, this Court is unable to find any error in the impugned order dated 16.08.2017 passed by the 2nd respondent, hence the Writ Petition is liable to be dismissed and the same is dismissed. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

ssd

To:

- 1.The Director General of Police,
Mylapore, Chennai - 600 004
2. Additional Director General of Police
(SCRB), Mylapore, Chennai - 600 004
3. Inspector General of Police (SCRB)
98, Santhome High Road,
R.A.Puram, Chennai - 600 028

+1 cc to the Govt Pleader sr 78286

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