

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.08.2017

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THE HONOURABLE MR.JUSTICE V.PARTHIBAN

Writ Petition No.15370 of 2013

K.Krishnamurthy

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Petitioner

Versus

The Principal Secretary to Government,
Home (Pol.2) Department,
Secretariat, Chennai-9.

...

Respondent

Prayer: This petition has been filed seeking for a Writ of Certiorarified Mandamus calling for the records pertaining to the orders of the respondent herein passed in G.O.Ms.No.330, Home (Pol.2) Department, dated 27.05.2013 rejecting the petitioner's request for granting accelerated promotion as Deputy Superintendent of Police (Cat-1) with effect from 11.3.1997 and quash the same and consequently, direct the respondent herein to grant the petitioner accelerated promotion as Deputy Superintendent of Police (Cat-1) with effect from 11.3.1997 and grant consequential promotions notionally from the date of promotion of immediate juniors and revise the petitioner's pensionary benefits with all consequential service and monetary benefits.

For Petitioner : Mr.Ravi Shanmugam

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

O R D E R

The petitioner has approached this Court seeking the following reliefs:

To issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the orders of the respondent herein passed in G.O.Ms.No.330, Home (Pol.2) Department, dated 27.05.2013 rejecting the petitioner's request for granting accelerated promotion as Deputy Superintendent of Police (Cat-1) with effect from 11.3.1997 and quash the same and consequently, direct the respondent herein to grant the petitioner accelerated promotion

as Deputy Superintendent of Police (Cat-1) with effect from 11.3.1997 and grant consequential promotions notionally from the date of promotion of immediate juniors and revise the petitioner's pensionary benefits with all consequential service and monetary benefits.

2. The case of the petitioner is that he joined the police services as Direct Sub-Inspector of Police in the year 1979 and was promoted as Inspector of Police on 24.10.1993. He was further promoted as Deputy Superintendent of Police on 06.10.2005 and on attaining the age of superannuation, he retired from service on 31.05.2013. According to the petitioner, during his entire period of service of 34 years, he had received several Good Service Entries and Meritorious Service Entries and was also granted most prestigious President Police Medal for his meritorious service.

3. While he was working as Inspector of Police (L&O), Washermenpet Police Station from 10.06.1996 to 29.06.1998, a Special Team was formed consisting of 3 Police Officers to apprehend suspected Muslim Fundamentalists who were involved in manufacturing of bombs and other explosive materials in Kodungaiyur. The Muslim Fundamentalists were part of Al-Umma Extremists. A Special Team was consisting of the petitioner, one Thiru Murali, Inspector of Police and another Thiru A.G.Mourya, Assistant Commissioner of Police. The Special Team raided the place and house where Al-Umma Extremists were residing on 11.03.1997 and apprehended two of the fundamentalists. In the Special Team Operation, the petitioner took most active participation by breaking the rear door open and apprehending the fundamentalists by putting his own life on high risk. The daring operation by the Special Team, particularly, the act of the petitioner came in appreciation on the floor of the Assembly by none other than the Hon'ble Chief Minister himself on 25.4.1997. All the superior officers right from the Director General of Police appreciated the daring act put up by the petitioner.

4. While matters stood thus, in pursuance of the certain directions, issued by the then Tamil Nadu Administrative Tribunal, a Government Order was issued on 19.03.1996 (G.O.Ms.No.468, Home (Pol.V) Department) by constituting a Board for grant of accelerated promotion to the Police Personnel for their outstanding performance in discharge of their duties and in sports. One of the guidelines which was issued by the Board was that accelerated promotion would be granted for performance in respect of police personnel whose performance was of high order and exceptional personal ability in achieving operational success at great risk of personal life. According to the petitioner, that his claim for grant of accelerated promotion

under the Government Order falls squarely within the said guideline. However, in spite of the petitioner fulfilling the mandate of the guideline, in the matter of accelerated promotion, no decision was taken by the Board towards fulfilling the claim of the petitioner. In the said circumstances, the petitioner approached the then Tamil Nadu Administrative Tribunal in O.A.No.1275/2004 for addressing his grievances. The then Administrative Tribunal disposed of the Original Application on 25.03.2004 directing the competent authority to pass orders on the representation of the petitioner dated 16.12.2002. According to the petitioner, the decision of the Tribunal became final. However, the same was not implemented.

5. Since the direction passed by the then Tamil Nadu Administrative Tribunal was not complied with and subsequently, the Tribunal having been abolished, the petitioner could not pursue his claim on the basis of the order passed by the Tribunal. However, the petitioner has approached this Court in W.P.No.9394/2005, seeking a relief of grant of promotion as Deputy Superintendent of Police w.e.f. 11.03.1997. In the said proceedings, a counter affidavit was filed. This Court, on consideration of the petitioner's claim as well as the counter affidavit had allowed the Writ Petition on 23.12.2011. This Court, while allowing the writ petition has categorically observed as follows:

"In the counter affidavit, it is stated that the Tamil Nadu Chief Minister's Medal was given to the petitioner for his meritorious service. The Medal alone, in my considered view, would not be a justifiable reward to the petitioner considering his brave act referred to above. The operation carried out to nab Al-Umma extremists is nothing less than the act of some of the Police Officers and the Special Task Police Personnel involved in the operation of nabbing the forest brigand Veerappan, who have been accorded accelerated promotion.

"In view of the above stated position, I am inclined to direct the respondent to consider granting the petitioner accelerated promotion as Deputy Superintendent of Police (Category-1) for his professional achievement in nabbing Al Umma Extremists and for having seized large quantities of bombs and explosives on 11.03.1997 by risking his life with all consequential monetary and service benefits. The said exercise has to be carried out within a period of two months from the date of receipt of a copy of this Order."

6. However, the above decision was not implemented and when a Contempt Petition (Cont.P.No.1531/2012) was filed, then, G.O.Ms.No.330, Home (Pol.2) Department, dated 27.05.2013 was

issued rejecting the claim of the petitioner. It is also relevant to point out that as against the above order of the Single Judge, Writ Appeal No.246/2013 was filed and the same was also disposed of by confirming the order passed by the learned Single Judge.

7. The learned Counsel appearing for the petitioner would submit that the earlier order passed by this Court in W.P.No.9394/2005 dated 23.12.2011 had become final since the same has been confirmed in appeal by the learned Division Bench of this Court on 22.02.2013. According to the learned Counsel for the petitioner, this Court while allowing the Writ Petition on 23.12.2011 had not given any direction to the department for taking decision other than the grant of accelerated promotion to the petitioner on the basis of his act in apprehending the Muslim Fundamentalists on 11.03.1997 by risking his life. According to the learned Counsel for the petitioner, in response to the contempt petition, the impugned Government Order was hurriedly passed without proper application of mind and therefore, the impugned order is liable to be interfered with.

8. The learned Counsel appearing for the petitioner would also draw my attention to number of instances where police personnel who were less meritorious and whose performance was less outstanding than the petitioner's having been granted accelerated promotion, particularly, the police personnel involved in the Special Task Force in nabbing the Forest Brigand Veerappan in Sathyamangalam Forest. However, the daring act put up by the petitioner is nowhere less than the other acts by the police personnel involved in nabbing the Forest Brigand Veerappan. It is also the case of the petitioner that by appreciating his act for apprehending the Muslim Fundamentalists, the Chief Minister Medal was also conferred on him and such medal was not conferred on the other two members of the Special Team. According to the learned Counsel for the petitioner, the petitioner had a special role in nabbing the Muslim Fundamentalists and the same was recognized by the State Government, but, unfortunately, the Board which was constituted and as per G.O.Ms.No.468 dated 19.3.1996, the daring act of the petitioner was not recognized for the reasons best known to the Board. In view of the facts and circumstances explained above, the impugned G.O.(Ms.) No.330 dated 27.05.2013 cannot be countenanced both in law and on facts.

9. Mr.T.M.Pappiah, Special Government Pleader entered appearance on behalf of the respondent and filed a detailed counter.

10. The learned Special Government Pleader appearing for the respondent would reiterate the contents of the counter affidavit and would submit that the Board authority felt that the petitioner was not entitled for any such consideration to grant of accelerated promotion as Deputy Superintendent of Police.

11. This Court has given its anxious consideration to the rival submissions of both sides and perused the pleadings and materials placed on record.

12. From the circumstances and the facts narrated above, there cannot be two opinions to the fact that the petitioner had indeed put his life in high risk while apprehending the Muslim Fundamentalists and seizing certain explosive materials including bombs. If this act of the petitioner was not gallantry enough, what act, according to the State Government, would get recognition for brave act put forth by the Police Personnel. Therefore, this Court is unable to persuade itself with the contention of the learned Special Government Pleader that the petitioner was not entitled for the grant of accelerated promotion. Moreover, it has to be seen that this Court, in the earlier direction issued on 23.12.2011 had categorically observed about the daring act of the petitioner and instead of directly conferring the accelerated promotion on the petitioner, this Court has merely used the expression to consider, but, unfortunately, the authorities have taken it as though the discretion was given to them either to consider the case positively or negatively. Although, this Court had earlier allowed the writ petition, the respondent has not implemented it and unfortunately, the same has been rejected by driving the petitioner to approach this Court once again for the same relief.

13. In view of the cumulative circumstances of the case, this Court has no hesitation in allowing the prayer in the Writ Petition. Therefore, the impugned order of the respondent passed in G.O.Ms.No.330, Home (Pol.2) Department, dated 27.05.2013 is set aside and consequently, there shall be a direction to the respondent to grant accelerated promotion to the petitioner as Deputy Superintendent of Police w.e.f. 11.03.1997 and other consequential benefits like further promotion and other attendant pensionary benefits during the period of his service and thereafter. Such order shall be passed within a period of 3 months from the date of receipt of a copy of this Order.

14. With the above directions, this Writ Petition stands allowed. No costs.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

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To
The Principal Secretary to Government,
Home (Pol.2) Department,
Secretariat, Chennai-9.

+ 1 cc to Mr.Ravi Shanmugam, Advocate,SR.63101

+ 1 cc to The Govt.Pleader, SR.63404

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PA(CO)
NR 22/09/2017



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