



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.12.2017

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THE HONOURABLE MRS.JUSTICE **V.BHAVANI SUBBAROYAN**

W.P. (MD) No.10947 of 2014

K.Prem Anand

...Petitioner

Vs.

1. The State of Tamil Nadu,
Represented by,
The Secretary to Government,
Home Department,
Secretariat, St.George Fort,
Chennai.
2. The Director General of Police,
Beach Road, Chennai -4.
3. The Inspector General of Police,
(South Zone)
Madurai.
4. The Superintendent of Police,
Theni, Theni District.
5. The Deputy Superintendent of Police,
Theni, Theni District.

...Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to take necessary action on the basis of my representation dated 14.02.2013 with regard to promote the petitioner as Head Constable w.e.f., from 01.01.2007 when the juniors were promoted, without reference we to the check period in the light of full bench decision in the Deputy Inspector General of Police-Vs-V.Rani reported in 2011 (4) MLJ 1 and by considering my representation dated 14.02.2013 within the period that may be stipulated by this Court with all consequential benefits.

For Petitioner : Mr.K.Madhan

For Respondents: : Mr.S.Kumar

Additional Government Pleader

**ORDER**

This Writ petition has been filed by the petitioner for issuance of a Writ of Mandamus, to direct the respondents to take necessary action on the basis of the petitioner representation dated 14.02.2013 with regard to promote the petitioner as Head Constable w.e.f., from 01.01.2007 when the juniors were promoted, without reference to the concept of check period in the light of full bench decision in the **Deputy Inspector General of Police Vs. V.Rani** reported in **2011 (4) MLJ 1** and by considering the petitioner's representation dated 14.02.2013.

2.The petitioner was working as Police Constable at Armed Reserve, Theni District. On 31.10.1997 the petitioner was appointed as Police Constable and he was appointed in 7th Battalion after completion of training and he was promoted as Police Constable While the petitioner was served as Police Constable at 7th Battalion, he was served with a charge memo under Rule 3(b) of Tamil Nadu Subordinate Services (D&A) Rules, 1955 in P.R.No.64/2003 alleging that his wife made a complaint against him and a case had been registered under Section 498(A) IPC and Section 4 of Dowry Prohibition Act. Hence, he was temporarily suspended on 04.09.2002 and subsequently it was cancelled. Thereafter, the petitioner was transferred to Tuticorin Armed Reserve Police and the above said case was later had withdrawn by his wife and both of them living together and blessed with a child.

3.The punishment period was over on 31.12.2006 and he had completed 10 years service as a Police Constable. He had promoted as a Police Constable on 01.01.2007. Now, he is eligible for promotion to the post of Head Constable and he had satisfied all the requirements prescribed for the post of Head Constable. He was aggrieved by the information that his name was not included in the seniority list of Police Constable Grade-I. Initially the reason for not including his name in the seniority list was not known to the petitioner and later he came to know that the respondents have stated that the concept of 5 years check period in respect of any punishment other than censure cannot be given promotion. But the petitioner would submit that in the case of **The Deputy Inspector General of Police Vs. Rani** reported in **2011 (4) MLJ.1** wherein, the said concept of 5 years check period in respect of any punishment other than censure was cancelled by the Full Bench of this Court and he seeks to be considered. Hence, he gave a representation to the respondents in the year 2010 and 14.02.2013 to the respondents to consider his name for the promotion to the post of Head Constable for the year 2007 without reference to the concept of check period. Till date, no order has been passed on that and now the petitioner seeks for a direction



to the respondents to take necessary action on the basis of his representation dated 14.02.2013.

4. Considering the above said submission and also based on the Judgment of this Court, this Court directs the petitioner to submit a fresh application within a period of two weeks from the date of receipt of a copy of this order and the respondent authority is directed to consider the same and pass appropriate orders or take necessary action within a period of eight weeks from the date of receipt of such application along with this order.

5. This writ petition is disposed of accordingly. No costs.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

To

1. The Secretary to Government, Home Department,
Secretariat, St. George Fort,
Chennai.

2. The Director General of Police,
Beach Road, Chennai -4.

3. The Inspector General of Police,
(South Zone) Madurai.

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

5. The Deputy Superintendent of Police,
Theni, Theni District.

+ 1 cc TO The Special Government Pleader in SR No. 92729

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AE/SKN RSK/SAR4/04.01.2018/3P/7C