



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 17.08.2017

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

AND

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.A.[MD].No.1263 of 2016

and

C.M.P(MD)No.8608 of 2016

- 1.Government of Tamil Nadu,
Represented by its Secretary to Home Department,
Fort.St.George,
Chennai.
 - 2.The Director General of Police,
Kamarajar Salai,
Mylapore, Chennai.
 - 3.The Deputy Inspector General of Police,
Tiruchirappalli.
 - 4.The Superintendent of Police,
Karur District.
 - 5.The Accountant General (Account & Entitlement)
Pension Section - 15,
No.361, Anna Salai,
Chennai 600 018.
- ... Appellants/Respondents
Vs.
- B.Rathinam ... Respondent/Petitioner

PRAYER : Writ Appeal is filed under Clause 15 of the Letters Patent, to set aside the common order dated 26.11.2013 made in W.P.(MD) No.7457 of 2013 on the file of this Court.

Prayer in WP(MD). 7457/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, call for the records of the fourth respondent dated 28.10.2010 made in Na.Ka.No.A3/31924/2010, quash the same and consequently direct the second respondent herein to revise the pension and other retirement benefits by advancing the upgradation as Grade I Police Constable / Head Constable on completion of 10/5 years and upgrade as Sub Inspector of Police on completion of 25 years of service and also upgrade to the higher



posts notionally in the light of Government orders and order made in WP No. 11544 to 11550 of 2012 dated 28.06.2012 which were extended to petitioner s juniors within the time limit stipulated by this HOnourable Court and pass such further or other.

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For Appellants

: Mr.T.S.Mohammed Mohideen
Additional Government Pleader

JUDGMENT

[Judgment of the Court was delivered by **G.R.SWAMINATHAN, J.**]

The Government is on appeal challenging the order dated 26.11.2013 made in W.P.(MD) No.7457 of 2013 filed by the respondent herein.

2.The respondent herein was enlisted as Gr.II Police Constable on 10.07.1973. He was upgraded as Gr.I Police Constable on 20.02.1993. He became a Head Constable on 25.01.1998. He became a Temporary Sub-Inspector on 15.11.2007 and retired on 30.06.2008. It is the grievance of the writ petitioner that on account of non grant of promotion as and when he became eligible, the writ petitioner could not be made Special Sub-Inspector of Police on completion of 25 years of service. In other words, his contention is that having joined the department in 1973, he should have been made Special Sub-Inspector of Police in 1998. He therefore represented to the Government. But his request was rejected by the Superintendent of Police, Karur District, by order dated 28.10.2010. This was challenged in W.P.(MD) No.7457 of 2013. By a common order, the learned Judge allowed the writ petition filed by the respondent herein. Aggrieved by the same, this writ appeal has been filed.

3.Heard the learned Additional Government Pleader for the appellants.

4.Admittedly, the respondent herein retired from service on 30.06.2008 itself. He could not have claimed thereafter that he should have been made Special Sub-Inspector of Police 10 years earlier. If the writ petitioner was aggrieved by non grant of promotion when he was holding the post of Gr.II Police Constable, Gr.I Police Constable and Head Constable, he should have raised the issue then and there. There cannot be a retrospective grant of notional promotion in such cases. The claim of the writ petitioner is inherently stale. By entertaining such belated claims, great confusion will be caused in the administration. The writ petitioner has rested his entire case on hypothetical and notional grounds. Merely because some cases, an indulgent view was taken, it is not a ground to extend the same treatment to all service employees. This Court will have to see if the respondent had really made out a case in law. We are of the view that there is



absolutely no merit in the writ petitioner's claim. The writ petition was wrongly allowed. We set aside the same.

5.The writ appeal stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

- 1.Government of Tamil Nadu,
Represented by its Secretary to Home Department,
Fort.St.George,Chennai.
- 2.The Director General of Police,
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- 3.The Deputy Inspector General of Police,
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- 4.The Superintendent of Police,Karur District.
- 5.The Accountant General (Account & Entitlement)
Pension Section - 15,
No.361, Anna Salai, Chennai 600 018.

+1cc to Special Government Pleader, SR.No. 73069

mm / arul

MAS/KK/SAR2:20.10.2017:3P-7C

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