



WEB COPY

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.1265 of 2016

and

C.M.P(MD)No.8612 of 2016

1.State Represented through
its Home Secretary,
Government of Tamil Nadu,
Fort St.George,
Chennai 600 009.

2.The Director General of Police,
Kamarajar Salai,
Mylapore, Chennai 600 004.

3.The Deputy Inspector General of Police,
Tirunelveli.

4.The Superintendent of Police,
Thoothukudi.

... Appellants/Respondents

Vs.

T.Esakkimuthu

... Respondent/Petitioner

PRAYER: Writ Appeal is filed under Clause 15 of the Letters Patent, to set aside the order dated 29.04.2013 made in W.P.(MD) No.3487 of 2013 on the file of this Court.

Prayer in WP(MD). 3487/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order No.A2/23253/2011-14 dated 17.08.2011, passed by the 4th respondent and quash the same as illegal and consequently direct the 4th respondent to consider the petitioner's claim to promote the petitioner as Grade - I Constable from 01.04.1991, Head Constable from 01.04.1996 and SSI from 01.04.2006.

For Appellants : Mr.T.S.Mohamed Mohideen
Additional Government Pleader

For Respondent : Mr.S.Muthalraj

**JUDGMENT**

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

This writ appeal is directed against the order dated 29.04.2013 allowing W.P.(MD) No.3487 of 2013 filed by the respondent herein.

2.The respondent joined the Police Department as Gr.II Police Constable on 01.04.1981. He became a Gr.I Police Constable only on 31.08.1995. He became a Head Constable on 25.07.2000. He was promoted as Special Sub Inspector of Police on 01.08.2010.

3.It is the grievance of the writ petitioner that if he had been promoted in time, he would have become a Gr.I Police Constable on 01.04.1991 and Head Constable on 01.04.1996 and Sub-Inspector of Police on 01.04.2006. He therefore represented to the 4th respondent. The 4th respondent by order dated 17.08.2011 rejected his case. Aggrieved by the same, the said writ petition came to be filed. The learned Judge allowed the writ petition. Questioning the same, the present intra Court appeal has been filed.

4.Heard the learned Additional Government Pleader for the appellants and learned counsel appearing for the respondent.

5.We are of the view that the question of granting notional promotion on retrospective basis cannot arise. The writ petitioner admittedly did not raise any dispute during the relevant point of time. He became a Gr.II Police Constable on 01.04.1981. He was promoted as Gr.I Police Constable on 31.08.1995. If the writ petitioner's case is that he should have been made a Gr.I Police Constable in 1991 itself, he ought to have filed a case in the year 1991 or atleast in 1992. A stale claim cannot be made 22 years later. On the very face of it, the claim is belated and the writ petition is hit by laches. If such stale claims are entertained, there will be only confusion caused in the administration. The learned Judge erred in allowing the writ petition. The same is set aside.

6.This writ appeal stands allowed. No costs. Consequently, connected miscellaneous petitions are 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,
Kamarajar Salai,
Mylapore, Chennai.

3. The Deputy Inspector General of Police,
Tirunelveli.

4. The Superintendent of Police,
Thoothukudi.

+1cc to M/S.S.MUTHAL RAJ, Advocate SR.No.73019
+1cc to Special Government Pleader, SR.No. 73065

mm/arul

MAS/KK/SAR2:23.10.2017:3P-7C

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17.08.2017