



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.04.2017

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.A. [MD] .No.784 of 2013
and
M.P. (MD) .No.2 of 2013

1. The Deputy Inspector General of Police,
Tirunelveli Rural Range,
Tirunelveli - 11.
2. The Chairman of Range Promotion Board and
The Superintendent of Police,
Thoothukudi District.
3. The Superintendent of Police,
Thoothukudi District,
Thoothukudi.
4. The State of Tamil Nadu,
Rep. by its Secretary to Government,
Home (Police) III Department, Fort st. George
Chennai - 60 009.

: Appellants/Respondent

Vs.

S.Arputhanantham

: Respondent/Petitioner

PRAYER: Writ Appeal is filed under Clause 15 of the Letters Patent against the order dated 08.10.2012 made in W.P.(MD).No.4824 of 2009, on the file of this Court.

Prayer in WP(MD) . 4824/ 2009 :

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 pertaining to the proceedings in C.No.A2/4546/06 dated 13.4.2009 of the 3rd respondent, the Superintendent of Police, Thoothukudi, Thoothukudi District and quash the same and direct the respondents to include the petitioner s name in the "C" list of Head Constables fit for promotion as Sub Inspector of Police in Tirunelveli Rural Range for the year 2006 and promote him with appropriate seniority as well as monetary benefits.



For Appellants : Mr.S.Chandrasekar
Government Advocate

For Respondent : Mr.A. Thirumoorthy

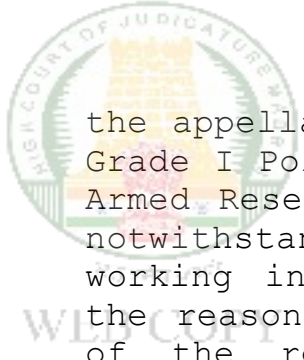
JUDGMENT

[Judgment of the Court was delivered by **T.S.SIVAGNANAM, J.**]

Heard Mr.S.Chandrasekar, learned Government Advocate, appearing for the appellants and Mr.A.Thirumoorthy, learned counsel appearing for the respondent.

2. This Writ Appeal is directed against the order, dated 08.10.2012, made in W.P.(MD).No.4824 of 2009. The said Writ Petition was filed by the respondent herein, praying for the issuance of a Writ of Certiorarified Mandamus to quash the order passed by the third appellant herein dated 13.04.2009 and to direct the appellants to include his name in the 'Ç' list of Head Constables fit for promotion as Sub Inspector of Police, Tirunelveli, Rural Range, for the year 2006 and promote him with appropriate seniority as well as monetary benefits.

3. The only issue, which was the bone of contention before the Writ Court, was as to whether the appellants were justified in not sending the respondent/Writ Petitioner for attending appropriate tests so as to enable the respondent/Writ Petitioner to include his name in the 'C' list for promotion as Sub Inspector of Police. The Writ Court considered the above issue, taking note of the materials available on record and pointed out that even though the respondent/writ petitioner was working in 'Q' branch CID, Chennai, based on the seniority in Armed Reserve Force, which was undisturbed, the respondent/Writ Petitioner has been upgraded as Grade I Police Constable and further as Head Constable in Armed Reserve Force, thereby, reiterating that the lien continued in the parent department. Further, it was pointed out that the respondent/Writ Petitioner has satisfied all eligibility criteria, as prescribed under Rule 3(d) of the Tamil Nadu Special Police Service Rules 1978 and the Writ Court also took note of the counter affidavit filed by the appellants in the Writ Petition, stating that the entire service records were maintained in the Office of the Superintendent of Police, Chennai and therefore, the name of the respondent/Writ Petitioner was not found in the seniority list of Tuticorin District and hence, his name was not included in the list of eligible candidates for the written and other tests. But, quite contrary to the same, it was contended by



the appellants that the respondent/Writ Petitioner was upgraded as Grade I Police Constable and as Head Constable in the Parent Unit, Armed Reserve Range, as per the seniority and length of service, notwithstanding the fact that the respondent/Writ Petitioner was working in CBCID, Chennai. Therefore, the Writ Court found that the reason assigned by the appellants for not including the name of the respondent/Writ Petitioner in the 'C' list of Head Constables fit for promotion as Sub Inspector of Police cannot be countenanced.

4. That apart, the Writ Court took into the consideration the case of one Mr.T.Nesamani, in whose favour the Government has passed an order in G.O.Ms.No.986, Home (Police III) Department, dated 02.05.1988, directing inclusion of the name of the said Head Constable in 'C' list of Head Constables fit for promotion as Sub Inspector of Police during the year 1985 by relaxing the Rule. The case of the said Mr.T.Nesamani is some what identical to the case of the respondent/Writ Petitioner and the Government thought it fit to grant relaxation of the provisions of Rule 3(d)(iii) of the Special Rules , insofar as it relates to the written test, drill and viva voce.

5. In our considered view, such a benefit ought to have been extended to the respondent/Writ Petitioner also. Further, the above finding rendered by the Writ Court was based on the materials, which were placed before the Court on a direction being issued by the Writ Court. This fact has been recorded in Paragraph No.21 of the order passed in the Writ Petition.

6. The learned Government Advocate appearing for the appellants would submit that subsequently, the respondent/Writ Petitioner has been promoted as Sub Inspector of Police. This is a good testimony to show that the respondent/Writ Petitioner was found fit for promotion. The Writ Court also considered various decisions of the Hon'ble Supreme Court and various other High Courts and has come to the conclusion that the respondent/petitioner has been denied consideration for promotion for no fault committed by him and therefore, issued appropriate direction to the appellants.

7. In the case of **Pilla Sitaram Patrudu and others, Vs. Union of India**, reported in **JT 1996 (4) SC 731**, the Hon'ble Supreme Court considered as to how an employee should be treated, when there is no fault committed by him and it was held in the said Judgment that the appointment was delayed for no fault of him and he came to be appointed in the year 1981 and therefore, he is entitled to the ranking given in the select list and appointment to be made accordingly.



8. Thus, for all the reasons stated above, we find no reason to interfere with the order passed by the learned Single Judge. Therefore, the Writ Appeal is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar

To

1. The Deputy Inspector General of Police,
Tirunelveli Rural Range,
Tirunelveli - 11.
2. The Chairman of Range Promotion Board and
The Superintendent of Police,
Thoothukudi District.
3. The Superintendent of Police,
Thoothukudi District,
Thoothukudi.
4. The Secretary to Government,
Home (Police) III Department, Fort St. George
Chennai - 60 009.

+1cc to Spl.Government Pleader Sr.No.50400

+1cc to Mr.A. Thirumoorthy, Advocate Sr.No.19171

NB/DSK

VB/MR/SAR4/19.04.2017/4P/7C

**JUDGMENT MADE IN
W.A. [MD] .No.784 of 2013
04.04.2017**