

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 07.03.2018

CORAM

THE HONOURABLE MR. JUSTICE T.RAJA

W.P. Nos.5134 to 5136 2018
and W.M.P.No.6306 of 2018

M.Raja .. Petitioner
[in W.P.No.5134 of 2018]

P.Rajendran .. Petitioner
[in W.P.No.5135 of 2018]

K.Umapathy .. Petitioner
[in W.P.No.5136 of 2018]

Vs.

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

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

3. The Commissioner of Police,
No.132, EVK Sampath Road,
Vepery, Periyamet,
Chennai - 600 007.

.. Respondents
[in all W.Ps.]

COMMON PRAYER : Writ Petitions have been filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to quash the order passed by the second respondent vide Order No.Rc.No.161257/NGB III(2)/2016 dated 31.03.2017 and directing the second respondent to grant notional promotion coupled with consequential monetary and service benefits such as re-fixation of seniority, pay and pension.

For Petitioner : Mr.R.Karthikeyan
[in all W.Ps.]

For Respondents : Mr.V.Jayaprakash Narayanan
[in all W.Ps.] Special Government Pleader

C O M M O N O R D E R

These Writ Petitions have been filed challenging the correctness of the impugned order dated 31.03.2017 rejecting the request of the petitioners for retrospective upgradation, giving a reason that the upgradation benefit was given to the police personnel only prospectively. Since the petitioners made a request to count their service from the date of entry for giving retrospective upgradation, the Director General of Police, in the impugned order, has specifically mentioned that when there is no clause in the upgradation G.O's for giving upgradation with retrospective effect, the petitioners request cannot be entertained.

2. Learned counsel appearing for the petitioners submitted that on 07.11.1975 the petitioners were appointed as Grade II Police Constables. As per the Scheme, the petitioners should have been upgraded from Grade II to Grade I on 07.11.1985 on completion of ten years, which has not been done. On the other hand, they were given upgradation as Grade I Police Constables only on 28.05.1993 and 16.10.1993 respectively. When they had completed five years of service from 07.11.1985 to 07.11.1990, they should have been further promoted as Head Constables, on completion of five years as Grade I Police Constables. But they were upgraded as Head Constables only on 14.01.1998, 15.01.1998 and 09.01.1998 respectively. Once again, after completing ten years of service in the post of Head Constable, the petitioners should have been given the benefit of upgradation to the post of Special Sub Inspector of Police on 07.11.2000. But wrongly they were given the benefit of upgradation to the post of Special Sub Inspector of Police only on 01.06.2008, 14.02.2006 and in the year 2011 respectively. Thereafter, after being promoted as Sub Inspectors of Police, all the petitioners have retired from service on reaching the age of superannuation, on 30.06.2011, 30.09.2012 and 31.05.2011 respectively. However, due to their sickness and age factor coupled with their deteriorating health condition, they were not able to approach the respondents immediately after their retirement. But, subsequently, they have made a representation. This has been rejected by the Director General of Police refusing to give them the benefit of upgradation with retrospective effect. Therefore, the impugned order is liable to be interfered with, he pleaded.

3. The learned Special Government Pleader appearing for the respondents, placing on record an order dealing with a similar issue rejecting the prayer of the petitioners therein vide order dated 15.07.2013 passed in W.P.No.19181 of 2013 [S.Senthamarai and others v. The State of Tamil Nadu represented by its Secretary to Government, Home Department and two others], submitted that this Court has held that when there is no

Government Order stating that all the police personnel shall be granted upgradation as Sub Inspector of Police on completion of 25 years of service, blindly, without anything more, even if he does not render 10 years of service as Head Constable out of 25 years of service, the petitioners cannot ask for retrospective upgradation. Moreover, the Government, nowhere in any of the Government Orders, provided for any such upgradation, as claimed by the petitioners.

4. The issue raised in these Writ Petitions has already been decided by this Court in the Writ Petition No.19181 of 2013 dated 15.07.2013 [S.Senthamarai and others v. The State of Tamil Nadu represented by its Secretary to Government, Home Department and two others], wherein it has been held as follows:-

"18. No Government Order states that all the police personnel shall be granted upgradation as Sub Inspector of Police on completion of 25 years of service, blindly, without anything more, even if he does not render 10 years of service as Head Constable out of 25 years of service. The Government Orders nowhere provide for such upgradation as claimed by the petitioners.

19. Hence, there is no reason for the petitioners to claim the benefit of upgradation of Special Sub Inspector of Police, by counting 25 years of service from the date of their appointment without reference to the services rendered as Head Constable for 10 years of service. On completion of 10 years of service as Head Constable, one can seek for upgradation as Special Sub Inspector of Police, if he has rendered a total service of 25 years of service.

20. In this case the petitioners were rightly granted upgradation for the post of Special Sub Inspector of Police on completion of 10 years of service as Head Constable, as they have put in 25 years of total service. Now the petitioners want upgradation as Special Sub Inspector of Police even before they were upgraded as Head Constables and that is not permissible.

21. I do not find any merit in the Writ Petition. The Writ Petition fails and the same is dismissed. No costs. The connected Miscellaneous Petition is closed."

5. When a similar and identical prayer was already refused by this Court way back on 15.07.2013 in the aforementioned Writ Petition, this Court finds no merit in these Writ Petitions as well. Accordingly, for the same reasons, these Writ Petitions are dismissed. Consequently, W.M.P.No.6306 of 2018 is also dismissed. No costs.

Sd/-
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

sri

To

1. The 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 Commissioner of Police,
No.132, EVK Sampath Road,
Vepery, Periyamet,
Chennai - 600 007.

+3cc to Mr.R.Karthikeyan,Advocate, sr.18040,18039,18038
+1cc to The Government Pleader, sr.17790

सत्यमेव जयते

W.P. Nos.5134 to 5136 2018

AD(CO)
RMP(26/03/2018)

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