

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.03.2018

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THE HONOURABLE MR.JUSTICE T.RAJA

W.P.Nos.7246 & 7247 of 2018

A.Dhasthagir .. Petitioner in W.P.No.7246 of 2018
R.Varadarajan .. Petitioner in W.P.No.7247 of 2018

-vs-

1. The Director General of Police
Tamil Nadu, Chennai 600 004
2. The Superintendent of Police
District Police Office
Coimbatore District
Coimbatore-18

... Respondents in both the writ petitions

Petitions under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, to call for the records in D.O.No.294/2016 in C.No.A-2/38625/2013 dated 1.4.2016 and in Na.Ka.No.A1/29835/2017 dated 27.11.2017 respectively on the file of the second respondent and quash the same and consequently direct the respondents to set right the service records of the petitioners in accordance with G.O.Ms.No.15 Home (Police-V) Department dated 7.1.2010.

For Petitioners:: Mrs.Vedavallikumar
For Respondents:: Mr.V.Jayaprakash Narayanan
Special Government Pleader

ORDER

The petitioners are the retired Special Sub Inspectors of Police with effect from 31.10.2014 & 31.07.2011 respectively. The learned counsel for the petitioners submitted that the petitioners were denied the benefit of upgradation at various levels. Therefore, after their retirement from the post of Special Sub Inspector of Police, they have made representations and the same were also rejected by the impugned orders dated 1.4.2016 & 27.11.2017. Having given upgradation to similarly placed Grade I Police Constables, Head Constables and Special

Sub Inspectors of Police retrospectively pursuant to the orders passed by this Court, there is nothing wrong in giving the same benefit to the petitioners. Therefore, the negation of the petitioners' prayer on the ground that the upgradation scheme was introduced and the benefit was given only prospectively and it cannot be given retrospectively, is untenable and unjustified, he pleaded.

2. Heard the learned Special Government Pleader for the respondents also.

3. Before proceeding into the merits of the matter, it may be mentioned that when the petitioners, on reaching the age of superannuation on 31.10.2014 & 31.07.2011, while serving as Special Sub Inspector of Police, retired from service, it is not known why the petitioners kept quiet for a long time after their retirement to ask for the benefit of upgradation. Secondly, when it is the claim of the petitioners that they were appointed as Grade II Police Constable on 15.11.75 & 12.7.73 and on completion of ten years of service, they should have been upgraded as Grade I Police Constable on 15.11.85 & 12.7.83, whereas they were given upgradation only in the year 1993 and again, when they were due for further upgradation to the post of Head Constable on 15.11.90 & 12.7.88 on completion of five years of service as Grade I Police Constable, but they were wrongly given upgradation in the post of Head Constable on 25.1.98, the petitioners should have given their representation immediately, which has not been done. Moreover, it is stated that the petitioners were upgraded as Special Sub Inspector of Police on 1.6.2008, which also they accepted quietly, and then, after serving in the said post of Special Sub Inspector of Police for about eight/three long years, they cannot rake up this issue after their retirement. Further, the Government, nowhere in any of the Government Orders, provided for any such upgradation, as claimed by the petitioners.

4. In fact, under similar circumstances, a learned Judge of this Court, D.Hariparanthaman, J. has already passed a detailed order in W.P.No.19181 of 2013 dated 15.7.2013 (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. Following the above order, I have also considered a similar challenge made to the very same impugned order in W.P.Nos.1571 to 1573 of 2018 and rejected the case of the petitioners therein by order dated 25.1.2018. In such circumstances, judicial discipline demands this Court to fall in line with the previous order passed by the learned single Judge in W.P.No.19181 of 2013 dated 15.7.2013 and followed by me. Therefore, this Court finds no merit whatsoever in these writ petitions, leave alone the ground of delay. Accordingly, these writ petitions are dismissed. No costs.

Sd/-

Assistant Registrar (CS V)

//True copy//

Sub Assistant Registrar

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To

1. The Director General of Police
Tamil Nadu
Chennai 600 004

2. The Superintendent of Police
District Police Office
Coimbatore District
Coimbatore-18

+2cc to Mr.Vedvalli Kumar, Advocate SR.No.24077
+2cc to Mr.Vedavalli Kumar, Advocate SR.No.24078
+2cc to Government Pleader SR.No.64640, 64641

W.P.Nos.7246 & 7247 of 2018

KJI (CO)
GN(17/04/2018)



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