

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.02.2018

CORAM

THE HON'BLE MR.JUSTICE K.K.SASIDHARAN
and
THE HON'BLE Mr.JUSTICE P.VELMURUGAN

W.A. No.372 of 2015
& M.P.No.1 of 2015

- 1.The Director General of Police,
Mylapore, Chennai-600 004.
- 2.The Deputy Inspector General of Police,
Cuddalore Range.
- 3.The Superintendent of Police,
Cuddalore District. ...Appellants

Versus

K.Palani,
Retired Special Sub-Inspector of Police,
3/486, Government Higher Secondary School,
Back Side, Kottaimedu Post,
Kamudhi Taluk, Ramnad District. ... Respondent

Prayer: Writ Appeal filed under Clause 15 of Letters Patent against the order dated 24.07.2014 made in W.P.No.19837 of 2014 on the file of this Court.

WP.19837 of 2014: Filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified mandamus, to call for the records in the impugned order in Na.Ka.No.A1/31873/2012 dated 30.11.2012 on the file of the 3rd respondent and quash the same and consequentially to issue directions to the respondents to advance the petitioner date of promotion as Grade I Police Constable Head Constable and Special Sub Inspector of Police to the date of actual completion of 10/5 years of service as per GO.Ms.844 dated 3.6.1997 GO.Ms.937 dated 21.7.1998 and G.O.Ms.15 dated 7.1.2010 and fix his pay in the scale of pay applicable to Special Sub Inspector of Police in the upgraded post of Special Sub Inspector of Police on completion of 25 years of service 1.1.1999 and also step up the petitioner's pensionary benefits.

For appellants :: Mr.P.H.Aravind Pandian
Addl. Advocate General,
Assisted by Ms.A.Srijayanthi,
Spl. Govt. Pleader

For respondent :: No appearance

JUDGMENT

(Judgment of the Court was made by K.K.SASIDHARAN,J.)

The appellant made a claim for promotion on completion of 10/15 years of service as per the Government Orders in G.O.(Ms) No.844, Home (Police-V) Department, dated 03.06.1997, G.O.Ms.No.937, Home (Police-V) Department, dated 21.07.1998 and G.O.Ms.No.15, Home (Police-V) Department, dated 07.01.2010 and to fix salary in the scale of pay applicable to Special-Sub Inspector of Police. The writ petition was filed only after the superannuation of the respondent.

2. The learned single Judge allowed the writ petition and a Mandamus was issued to the appellants to grant multiple promotion to the respondent, re-fix his pay scale and pay him pensionary benefits. Challenging the same, the appellants have come up with this Intra Court Appeal.

3. Heard the learned Additional Advocate General appearing on behalf of the appellants. None appeared on behalf of the respondent.

4. There is no dispute that the respondent filed the writ petition only after his superannuation. The cause of action for filing the writ petition arose even during the currency of his service. The respondent waited till his retirement for filing the writ petition.

5. The issue is squarely covered by the decision of the Madurai Bench of this Court in STATE AND THREE OTHERS V. T.ESAKKIMUTHU (W.A.(MD) No.1265 of 2016 dated 17.08.2017). The Division Bench made it clear that a stale claim cannot be made after considerable period. The facts are identical to the case referred above.

6. In the result, following the judgment in W.A.(MD) No.1265 of 2016, the order passed by the learned single Judge dated 24.07.2014 in W.P.No.19837 of 2014 is set aside.

7. The intra court appeal is allowed. No costs.
Consequently, connected miscellaneous petitions is closed.

Sd/-
Assistant Registrar(CCC)

//True copy//

Sub Assistant Registrar

raa

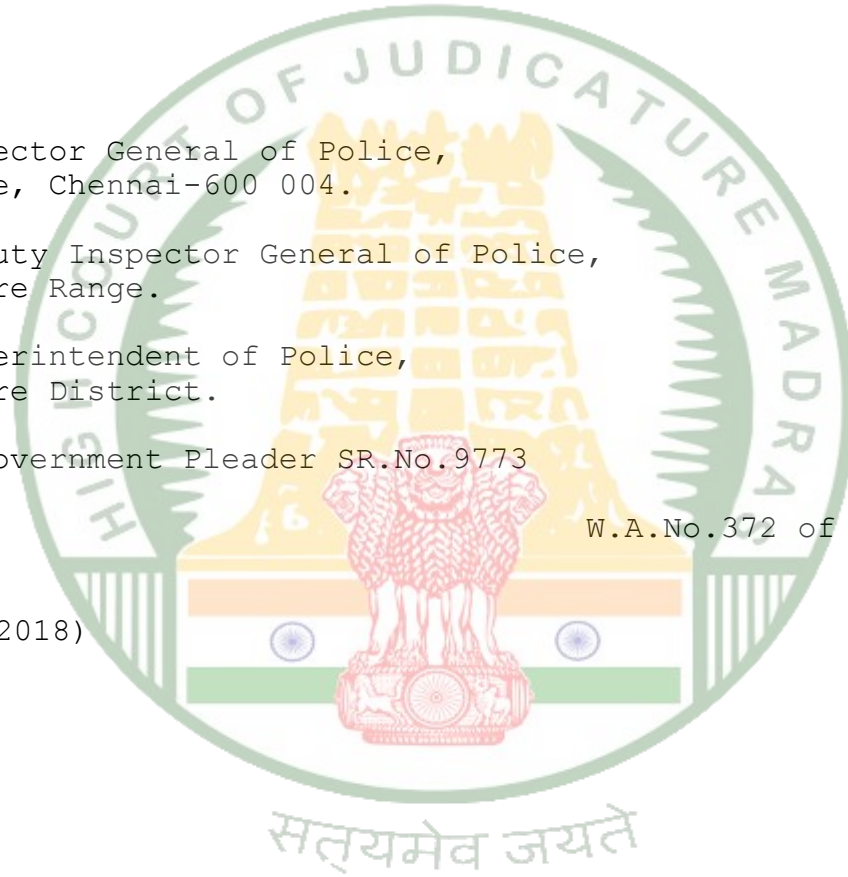
To

- 1.The Director General of Police,
Mylapore, Chennai-600 004.
- 2.The Deputy Inspector General of Police,
Cuddalore Range.
- 3.The Superintendent of Police,
Cuddalore District.

+1cc to Government Pleader SR.No.9773

W.A.No.372 of 2015

KJI (CO)
GN(09/03/2018)



WEB COPY