

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.03.2018

CORAM

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.A.No.1471 of 2017 & C.M.P.No.19540 of 2017

- 1.The State of Tamil Nadu,
Rep. by its Secretary to Government,
Home (Pol.1A) Department,
Fort St. George, Chennai-600 009.
- 2.The Director General of Police,
Chennai-600 004. Appellants/Respondents
- Vs. Respondent/Petitioner
- P.Krishnan

Writ Appeal filed under Clause 15 of Letters Patent against the order dated 07.04.2014 passed by this Court in Writ Petition No.45617 of 2006.

WP.No.45617/2006:Writ petition having been transferred from the file of the Tamil Nadu Administrative Tribunal in O.A.NO.1507 of 2000, is filed

i)to call for the records relating to Lr.No.67751/Pol.1A/98-17 Home dated 16.9.1998 passed by the Secretary to Government Home (Police 1A) Department Fort St. George Chennai 9 (the 1st respondent herein) and quash the same and

ii) to direct the respondents to include the name of the petitioner in the panel of DSP Category -1 fit for pro motion as Addl. Superintendent of Police Category -1 for the year 1998-99 without reference to the punishment imposed on 1.2.96 and to promote him as ADSP category -1 retrospectively from the date of his juniors got promotion with all attendant benefits.

For Appellants : Mrs.A.Srijayanthi,
Special Government Pleader

For Respondent : Mr.R.Neelakandan

JUDGMENT

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

The respondent was not given promotion to the post of Additional Superintendent of Police (Category-I) for the panel year 1988-89 on the ground that his probation was not declared till then. The first appellant in the order dated 16 September 1998 communicated that the denial of promotion was on account of the currency of punishment. The respondent challenged the order dated 16 September 1998 before the State Administrative Tribunal in O.A.No.1507 of 2000. The original application was transferred to this Court and it was re-numbered as Writ Petition No.45617 of 2006. The learned Single Judge allowed the writ petition on the ground that the punishment was over by 31 December 1998. The order is under challenge at the instance of the State.

2. We have heard the learned Special Government Pleader on behalf of the appellants. We have also heard the learned counsel appearing for the respondent.

3. The impugned order dated 16 September 1998 would appear as if the promotion was denied on account of the currency of the punishment. However, counter affidavit filed by the Home (Police-1A) Department before the Tamil Nadu Administrative Tribunal in O.A.No.1507 of 2000 indicates that the denial of promotion was also for the reason that his probation has not been declared. The said contention has not been denied by the respondent either before the State Administrative Tribunal or before the Writ Court.

4. It is true that the impugned order proceeds as if the promotion was denied on account of the currency of punishment. It is a matter of record that the punishment got expired on 31 December 1998. However, there is another valid reason for denial of promotion. It is not the case of the respondent that his services were regularised in the post of Deputy Superintendent of Police by declaring the probation. Even there are no materials in the pleadings suggesting that the service of the respondent was regularized and in spite of such regularization, he was not given promotion. This aspect was not considered by the learned Single Judge. We are therefore, of the view that the impugned order dated 07 April 2014 is liable to be set aside.

5. The order dated 07 April 2014 is set aside. The writ petition in W.P.No.45617 of 2006 is dismissed.

6. In the upshot, we allow the intra court appeal. No costs. Consequently, connected miscellaneous petition is closed.

abr/a

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

1.The State of Tamil Nadu,
Rep. by its Secretary to Government,
Home (Pol.1A) Department,
Fort St. George, Chennai-600 009.

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

+1cc to Government Pleader Sr.No.22890/18

SV(CO)
EU:13.4.2018

W.A.No.1471 of 2017



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