

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.11.2018

CORAM:

THE HON'BLE Dr. JUSTICE S.VIMALA

Writ Petition No.11876 of 2018

C.Thamizh Chelvi

... Petitioner

..vs..

1. The Secretary to Government,
Home (Police IV) Department,
Fort St. George, Chennai 600 009

2. The Director General of Police,
Dr. Radha Krishnan Salai,
Mylapore, Chennai 600 004

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents to consider the claim of the petitioner for inclusion of her name in the C list of Sub-Inspector of Police fit for promotion as Inspector of Police (Taluk) for the year 2017-18 in RC No.6758/444/ NGBV(1)/ P/05/2018 dt.14.4.18 notwithstanding and without reference to the pending criminal case registered in Crime No.45/2017 of Palur Police Station and promote her as Inspector of Police (Taluk) and grant her all consequential service and monetary benefits at par with her junior.

For Petitioner : Mr. K.Venkataramani, Sr. Counsel, for,
M/s. M.Muthappan

For Respondents : Mr. A.N.Thambidurai, Spl.GP.,

O R D E R

This writ petition has been filed by the petitioner seeking direction to the respondents to include the name of the petitioner in the seniority list of Sub-Inspector of Police, who are found fit for promotion as Inspector of Police (Taluk), for the year 2017-18, without reference to the pending criminal case registered in Crime No.45/2017 of Palur Police Station and to promote her as Inspector of Police (Taluk) and grant her all consequential service and monetary benefits on par with her junior.

2. The learned counsel appearing for the petitioner would submit that on the date of preparation of the panel, i.e., on

01.06.2017, there was neither an order of suspension nor formulated charge nor any pending criminal case and therefore, the petitioner ought to have been included in the panel for promotion of Inspector of Police and the order of the respondents declining the inclusion of her name in the panel is not proper.

2.1. The learned counsel for the petitioner also relied upon the decision of this Court in the case of Gunasekaran v. The Secretary to Government and another, in W.P.No.13931 of 2008, dated 04.11.2008, where-under in paragraph 6, it has been observed that on the date of consideration of the panel, the petitioner neither faced any disciplinary proceedings nor there was any suspension nor there was a charge sheet and therefore, there is no impediment to include the name of the petitioner in the panel fit for promotion.

3. The learned counsel appearing for the petitioner also relied upon the fact that even though the criminal proceedings have been initiated against the petitioner in respect of Crime No.45 of 2017, no charge sheet has been pending as on 01.06.2017.

4. The factual aspects are not under dispute. As held by the Hon'ble Apex Court, the persons claiming for promotion can be deferred only on three grounds, namely, suspension, formulated charges or charges in a criminal case. None of them had been pending against the petitioner on the date of consideration of the panel for promotion, i.e., on 01.06.2017. Therefore, the claim of the petitioner has to be accepted.

5. In view of the foregoing reasons, the respondents are directed to consider the claim of the petitioner for inclusion of her name in the C list of Sub-Inspector of Police fit for promotion as Inspector of Police for the year 2017-18 without reference to the pending criminal case registered in Crime No.45 of 2017 of Palur Police Station and to pass consequential orders, within a period of four weeks from the date of receipt of a copy of this order.

6. With the above directions, this writ petition is disposed of. No costs.

Sd/-

Assistant Registrar(CS-III)

//True copy//

Sub Assistant Registrar

srk

To

1. The Secretary to Government,
Home (Police IV) Department,
Fort St. George, Chennai 600 009

2. The Director General of Police,
Dr. Radha Krishnan Salai,
Mylapore, Chennai 600 004

+1cc to Mr.M.Muthappan, Advocate SR.No.81523

+1cc to Government Pleader SR.No.81392

W.P.No.11876 of 2018

VSN II (CO)
GMY (28/12/2018)



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