

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.04.2018

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.14685 of 2014

and

M.P.No.1 of 2014

K.Akbar Basha (HC.1202)
s/o.Kashim Khan,
Traffic Police, Dharmapuri. ..Petitioner

..Vs..

- 1.The Superintendent of Police,
Dharmapuri District,
Dharmapuri.
- 2.The Director General of Police,
Santhome, Mylapore, Chennai.
- 3.The Secretary to Government,
Home Department,
St.George Fort,
Chennai-9. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents to bestow the promotions with the eligible benefits forthwith to the petitioner.

For Petitioner : Mr.V.Manohar

For Respondents : Mr.D.Raghu
Government Advocate

O R D E R

The relief sought for in this writ petition is for a direction to direct the respondents to bestow the promotions with the eligible benefits forthwith to the petitioner.

2.The very relief sought for cannot be granted directly in view of the fact that the promotions sought is to be accorded only with reference to the eligibility criteria and all other Rules in force. Promotion can never be claimed as a matter of right. Consideration for promotion is a fundamental right. A person is entitled to be considered when he is otherwise qualified and eligible for promotion in accordance with the Rules in force. However, promotions cannot be sought for directly in the absence of establishing any legal right.

3.In the present case on hand, the learned counsel appearing on behalf of the respondents states that charges against the writ petitioner was pending during the appropriate time, when the panel was prepared and a criminal case was also pending. Thus, non consideration of the name of the writ petitioner for promotion during the appropriate time was on account of the pendency of the criminal case as well as the departmental disciplinary proceedings. Thus, there was no infirmity in respect of the actions taken by the authorities for deferring the name of the writ petitioner for promotion.

4.This Court is of an opinion that the case of the writ petitioner shall be considered only after the disposal of the criminal case, and after the conclusion of the departmental disciplinary proceedings. If the writ petitioner is exonerated from all the cases including criminal case, then, he would be eligible for promotion on par with his junior. In the event of imposing any punishment, then the writ petitioner may not be eligible for promotion in accordance with the Rules. In this view of the matter no further adjudication is required in respect of the grounds raised in this writ petition and the relief as such sought for in this writ petition cannot be granted.

5.Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

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Sub Assistant Registrar

KP

To

1.The Superintendent of Police,
Dharmapuri District,
Dharmapuri.

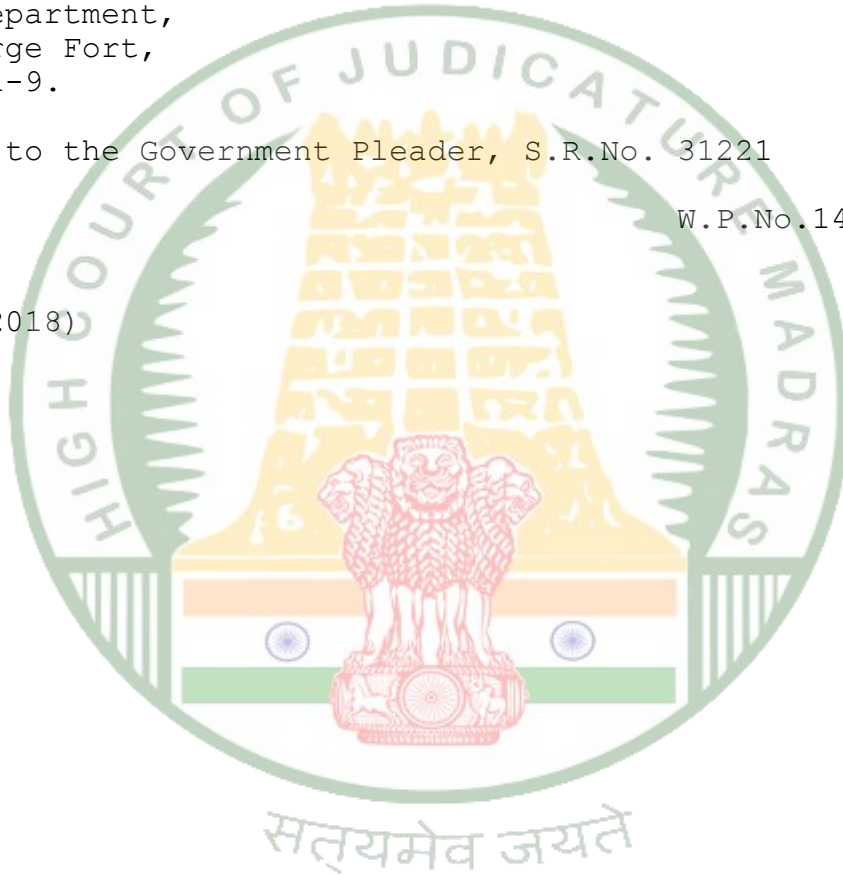
2.The Director General of Police,
Santhome, Mylapore,
Chennai.

3.The Secretary to Government,
Home Department,
St.George Fort,
Chennai-9.

+1cc to the Government Pleader, S.R.No. 31221

W.P.No.14685 of 2014

RK(CO)
TR(15/05/2018)



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