

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.11.2018

CORAM

THE HON'BLE MR.JUSTICE M.M.SUNDRESH
AND
THE HON'BLE MR.JUSTICE KRISHNAN RAMASAMY

W.A.No.552 of 2016

1. The Additional Director General of Police
Law and Order
Chennai - 600 004.
2. The Deputy Inspector General of Police
Salem Range
Salem.
3. The Superintendent of Police
District Police Office
Salem District. ... Appellants

Vs.

R.Senthil Nathan ... Respondent

PRAYER: Appeal under Clause 15 of the Letters Patent against the order dated 16.7.2013 made in W.P.No.20480 of 2012.

W.P.No.20480 of 2012:

Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of certiorarified Mandamus to call for the records relating to the impugned order passed by the 3rd Respondent in his proceedings Na.Ka.A1/50644/2011 dated 23.01.2012 and quash the same and consequently direct the Second Respondent herein to promote the Petitioner as Special Sub Inspector of Police w.e.f. 01.08.2010 in the light of G.O.(D) No.117 Home(Pol.3) Department dated 08.02.2010 and grant all consequential service and monetary benefits within a time frame.

For Appellants : Mr.V.Kathirvelu
Special Government Pleader

For Respondent : Ms.Daisy Bala

JUDGMENT
(Delivered by M.M.Sundresh,J.)

This appeal has been preferred against the order of the learned Single Judge, who in turn was pleased to allow the writ petition on the ground that the punishment imposed being one of "Deferred Black Mark" and in tune with Police Standing Order (PSO) 97, the respondent is entitled to be considered for upgradation along with similarly placed persons. Accordingly, the order dated 23.1.2012 passed by the third appellant was quashed with a direction to upgrade the respondent as Special Sub-Inspector of Police with effect from 1.8.2010 with consequential service and monetary benefits.

2. The learned Special Government Pleader appearing for the appellants would submit that the case of the respondent could only be considered after cancellation of the punishment of "Deferred Black Mark" and review by the Government and, therefore, the order of the learned Single Judge requires interference. Secondly, it is submitted that the order of the learned Single Judge directing the appellants to give all consequential service and monetary benefits cannot be sustained in the eye of law.

3. The learned counsel for the respondent would submit that after the period of six months, the punishment of "Deferred Black Mark" would go and by its nature, it is only a minor punishment and the learned Single Judge had rightly taken into consideration PSO 97 and allowed the writ petition and, therefore, no interference is required and in any case, the consequence of the quashing of the impugned order will have to follow.

4. Insofar as the main issue is concerned, we are in respectful agreement with the order of the learned Single Judge. PSO 97 speaks about "Deferred Punishment". There is no specific order that is required to be passed after the period of punishment mentioned therein. For better appreciation, we place on record PSO 97, which reads as under:

"PSO 97. Deferred Punishments.-

(1) For minor offences and in case of more serious misconduct when a man has a previous good record, the punishment may be held in abeyance for a stated period ranging from three to six months at the end of which order of punishment will be cancelled, if the officers conduct while on duty during the period of postponement has been good. If the offenders conduct is found to be unsatisfactory at any time during the period of punishment, the punishment may at once be confirmed. A deferred

punishment will be entered in the defaulter sheet if confirmed but not other wise."

5. It is not as if the conduct of the respondent is not satisfactory. The confirmation is required only when the conduct is found to be unsatisfactory. Therefore, there is no specific confirmation order required and if that is not done, it is presumed that the conduct is satisfactory. In such view of the matter, we do not find any error in the order of the learned Single Judge.

6. The other issue is in respect of the grant of consequential service and monetary benefits to the respondent. Granting of monetary benefits is not automatic. Admittedly, the respondent was suffering punishment of "Deferred Black Mark". Therefore, we are not able to agree with the learned Single Judge to the extent of directing the appellants to pay the monetary benefits on the ground that the respondent is entitled to the same, as if he worked in the upgraded cadre from 1.8.2010. In such view of the matter, while confirming the direction with respect to consequential service benefits by deeming as if the respondent was working from 1.8.2010, the monetary benefits in the said upgraded post is hereby declined.

With the above said modification, the writ appeal stands disposed of. No costs. Consequently, C.M.P.No.7466 of 2016 is closed.

-s/d-

Assistant Registrar(CS-IX)

True Copy

Sub-Assistant Registrar

sasi
To

1. The Additional Director General of Police
Law and Order
Chennai - 600 004.
2. The Deputy Inspector General of Police
Salem Range
Salem.
3. The Superintendent of Police
District Police Office
Salem District.

+1 CC to Mr.G. Bala and Daisy, Advocate sr 78213.

W.A.No.552 of 2016

AD(CO)
SP(04/12/2018)