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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.02.2018

CORAM:

THE HONOURABLE MR. JUSTICE T.RAJA

Writ Petition No.2913 of 2018

I.Nasrudeen, .. Petitioner

vs.

1.The Director General of Police,
Kamarajar Salai,
Chennai - 600 004.

2.The Inspector General of Police,
North Zone,
Chennai.

3.The Superintendent of Police,
Thiruvannamalai District,
Thiruvannamalai

.. Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the 1st respondent to consider the seniority of the petitioner from the year 2009 and further consider the promotion of the petitioner based on the year 2009.

For petitioner : Mr.M.Madhu Prakash

For respondents : Mr.V. Jayaprakash Narayanan
Special Government Pleader

ORDER

Mr.V. Jayaprakash Narayanan, learned Special Government Pleader takes notice for the respondents.

2. This Writ Petition has been filed seeking for a direction to the respondent to consider the seniority of the petitioner from the year 2009 and further consider the promotion of the petitioner based on the year 2009.



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3. The learned counsel appearing for the petitioner would submit that the petitioner was appointed as Grade II Police Constable in the Tamil Nadu Police Subordinate Services on 01.08.1984 and he was promoted as Grade-I, Police Constable on 25.07.1995 and he was promoted as head constable on 07.01.2010, subsequently on 01.08.2010, he was promoted as Special Sub Inspector of Police and further promoted as Sub Inspector of Police on 08.02.2016 and at present working as Sub Inspector of Police, Kilpennathur Police Station, Thiruvannamalai District. It is further submitted that the petitioner having joined the department on 01.08.1984 and got promotion as Sub-Inspector of Police in 2016, he should have been promoted as Inspector of Police, but till date he was not given promotion. Adding further, the learned counsel for the petitioner would submit that the respondents have not followed the principles and rules thereof in fixing the seniority of the petitioner. Having the wrong seniority fixed by the respondents, the petitioner could not get promotion on the due dates. In this regard, he would submit that the petitioner has made a representation mentioning all those facts to the respondents and since no reply was given by them, the petitioner has come forward with this Court seeking for the aforesaid relief. Adding further, he would submit that in similar circumstances, Madurai Bench in W.P. (MD)Nos.2988, 2989 dated 27.6.2011 and W.P.(MD)No.4864 of 2011 dated 27.4.2011, granted the benefits to the petitioners therein and therefore, he prays that the benefit of the said judgment may be extended to the present petitioner also.

4. On the other hand, the learned Special Government Pleader would submit that the issue raised in the present Writ Petition has been once and for all decided by this Court in W.P.No.22240 of 2015 by order dated 23.7.2015 in the case of M.Vadivelu vs. Deputy Inspector General of Police, Kancheepuram Range and two others, and the Writ Petition was dismissed with an observation that even on completion of ten years/five years/ten years, one cannot seek automatic upgradation as Grade I Constable/Head Constable/Special Sub-Inspector of Police, respectively, since if any disciplinary proceedings are pending, the upgradation would be deferred.

5. As the learned Special Government Pleader has submitted that the issue raised in the present Writ



Petition is covered by the order dated 23.7.2015 passed in W.P.No.22240 of 2015, it is relevant to extract the relevant portion of the order:-

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"9. In this case, the petitioner was upgraded as Grade I Police Constable in 1991 and thereafter, he was upgraded as Head Constable on 28.7.1998. Since the petitioner did not complete ten years of service as head Constable he was not further granted upgradation as Special Sub-Inspector of Police.

10. Even on completion of ten years/five years/ten years, one cannot seek automatic upgradation as Grade I Constable/Head Constable/Special Sub-Inspector of Police, respectively, since if any disciplinary proceedings are pending, the upgradation would be deferred.

11. In the Judgements, relied on by the petitioner, it was not held that the Government Orders referred to by the petitioner provides for retrospective upgradation.

12. Accordingly, the Writ Petition fails and the same is dismissed. No order as to costs."

6. A close reading of the aforesaid observations would clearly show that the issue is no longer res-integra and the contention of the writ petitioner deserves to be rejected. In view of the said order, there is no merit in the Writ Petition and the same fails. Hence, the Writ Petition is dismissed. No costs.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

arr



To

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Chennai - 600 004.
2. The Inspector General of Police,
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Chennai.
3. The Superintendent of Police,
Thiruvannamalai District,
Thiruvannamalai

W.P.No.2913 of 2018

SV(CO)

RRK(28/03/2018)

16-02-2018