

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders Reserved : on 15.02.2018

Orders Delivered: on 06.06.2018

Coram:-

The Honourable Mr. Justice T.Raja

Writ Petition No.20018 of 2016

R.P.Ilango

... Petitioner

vs.

1.State of Tamilnadu rep. by its
Secretary, Home (Police V) Department,
Fort St. George,
Chennai 600 009.

2.The Director General of Police,
Dr.Radhakrishnan Road,
Mylapore, Chennai 600 004.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India for the issuance of a writ of certiorarified mandamus calling for the records of the 2nd respondent and quashing the impugned memorandum dt 6.8.2014 issued by the 2nd respondent declining the request of the petitioner for the grant of accelerated promotion from the post of DSP to the post of Addl. Superintendent of Police or advance his seniority to the year 1999 as bad in law and consequently direct the respondents to grant him accelerated promotion based on G.O.No. 468 Home (Police V) Department dt 18.3.1996 as Deputy Superintendent of Police from the year 1999 based on the 2nd gold medal bagged by the petitioner in the year 1999 itself, as Addl. Superintendent from the year 2004 based on the 3rd gold medal, as Superintendent of Police from the year 2005 based on the 3rd gold medal;

For Petitioner : Mr.K.Ravi
Anantapadmanapan.

For Respondents : Mrs.Narmada Sampath,
AAG - Assisted by

Mr.V.Jayaprakash Narayanan-Spl.G.P.

O R D E R

The petitioner herein seeks for issuance of a writ of certiorarified mandamus to call for the records of the 2nd respondent, to quash the impugned Memorandum, dated 06.08.2014,

issued by the 2nd respondent declining the request of the petitioner for the grant of accelerated promotion from the post of DSP to the post of Additional Superintendent of Police or advance his seniority to the year 1999 as bad in law and consequently, to direct the respondents to grant accelerated promotion to the petitioner based on G.O.Ms. No.468, Home (Police V) Department, dated 18.03.1996, as Deputy Superintendent of Police from the year 1999 based on the 2nd gold medal bagged by the petitioner in the year 1999 itself, as Additional Superintendent from the year 2004 based on the 3rd gold medal and as Superintendent of Police from the year 2005 based on the 4th gold medal.

2. Mr.Ravi Anantapadmanaban, learned counsel for the petitioner, submitted that the petitioner was directly recruited as Sub Inspector of Police on 18.09.1987 and posted in the Battalion, Tamil Nadu Special Police. Since the date of his recruitment, he has been maintaining good service record and no disciplinary action was ever initiated against him. With high proficiency in Rifle and Pistol Shooting, he participated in the All India Rifle Shooting Competition Meet held at Haryana and secured 1st Gold Medal on 02.04.1996. In the same year, the Government issued G.O.Ms.No.468, Home (Police V) Department, dated 18.03.1996, stating that if police personnel bag gold medals in All-India Shooting Meets showing their proficiency in sports, revolver, rifle shooting etc., they are entitled to get accelerated promotion to the next high cadre on annual basis. For Securing 1st Gold Medal in the year 1996, the petitioner was promoted to the post of Inspector with effect from 03.09.1998. Subsequently, on the basis of G.O. Ms.No.468, dated 19.03.1996, he gave a representation to the Department on 06.04.1999, seeking to re-fix his seniority with effect from 02.04.1996, on which date, he bagged the first gold medal in the All India Rifle Shooting Competition. Again, in the year 1999, the petitioner bagged the 2nd Gold Medal in 300 Yard Rifle Snap Shooting Competition during the All India Police Shooting Duty Meet. Although the respondents should have given him accelerated promotion for the 2nd Gold Medal recognizing and appreciating his rare talents, as there was no response, on 12.04.2002, he made a representation seeking accelerated promotion to the post of Deputy Superintendent of Police (DSP) with effect from 1999 on the basis of the 2nd Gold Medal secured in 1999. Surprisingly, by letter (D) No.337 Home (Police-2) Department, dated 07.04.2003, of the first respondent, his plea was turned down stating that already, the petitioner was given accelerated promotion and that the Award/Gold Medal is not a substantial reason for extending accelerated promotion, that too, superseding 1150 Seniors and to the Gazetted Rank. But the fact remains that, during the same period, by way of G.O.Ms.No.1126, dated 22.11.2002, such accelerated promotion to

the post of DSP was given to the then Inspector of Police one Mr.S.Arumugasamy, superseding 1150 Inspectors of Police. Thus, on coming to know that accelerated promotions are given arbitrarily and that the reason cited to decline his plea is unjust and unlawful, he made a representation, dated 04.06.2003, to the Government to extend the same benefit in his favour by re-fixing his seniority as DSP from the year 1999. Again, on enquiry, as the petitioner came to know that accelerated promotions were given to other colleagues by relaxing the Rules, by representation dated 27.09.2003, he requested the 1st respondent to re-fix his seniority, but, there was no reply forthcoming. Out of sheer frustration, he made one more representation, dated 02.01.2004, addressed to the Inspector General of Police (Operations), Chennai, requesting him to revert the petitioner back to his original category III and to restore his original seniority in the said Category in case the Department intended to negative his representation, dated 04.06.2003, for the DSP promotion. In the meantime, he won the 3rd and 4th Gold Medals in the years 2004 and 2005 in the All India Shooting Duty Meet. Ironically, by reply dated 20.01.2009, the conversion request was also turned down, after a time-gap of 5 years which shows that the Department had taken about 5 years to decide even a small issue. Thereafter, the petitioner had filed Writ Petition No.7826 of 2009, seeking to quash said letter dated 20.01.2009, however, during the pendency of the Writ Petition, the petitioner was given promotion as DSP on 07.07.2010 and posted to the Commando Force where he was working. As he was posted in the Security Wing of the Chief Minister, he was unable to make any more representation seeking retrospective promotion, however, again, he made another representation, dated 08.02.2013, to restore his seniority as DSP from the year 1999 or to promote him as the Additional Superintendent of Police with immediate effect. Finally, the 2nd respondent, by the impugned Memorandum dated 06.08.2014, informed the petitioner that it is not feasible to give accelerated promotion by quoting amended G.O.Ms.No.769, Home (Pol.XI) Department, dated 11.07.2008, whereby accelerated promotion scheme is said to have been scrapped which is now applicable for those who have performed acts of extraordinary bravery and valour in achieving operational success only. By citing the said G.O., although the legitimate demands made by the petitioner were turned down, strangely and arbitrarily, similar request was readily granted to similarly situated police officers but not to the petitioner. When the petitioner was working as Inspector of Police-Category 1 in the Tamil Nadu Commando Force, besides attending to his administrative works, he was also imparting weapon training to the commando force, commando school personnel and even to the Senior Officers in the rank of SP/DIG/IGP/ADGP and DGP. Moreover, on the orders and guidance of the then IGP, SSG, he conducted Reflex Shooting

Training to more than 3000 State Police Personnel. He was also placed in-charge of selecting best marksmen and forming the Tamil Nadu Police Shooting Team for participating in the All India Police Duty Meets. After selecting 76 probables from among the police force, they were given intensive Shooting Training by the petitioner and some of them were selected for All India Meets. One of the marksmen trained by him, by name Mr.Ganesan-HAV 426 from TSP VIII Battalion, won a gold medal in the 2001 All India Duty Meet. Considering the petitioner's dedication and achievements, the I.G. of Police himself made a recommendation, dated 12.04.2002, to the D.G.P. to favorably consider the petitioner's case for accelerated promotion and promote him to the rank of DSP Category-1. But, even for such strong recommendation, the Department had turned deaf ears. The amended Government Order in G.O. No.769, scrapping accelerated promotion only against sports activities/rifle shooting on an All India Level came into effect only on 11.07.2008, whereas, the petitioner had obtained 4 Gold Medals between 1996 and 2005. On this basis, learned counsel submitted that since the beneficial G.O. No.468, dated 18.03.1996, was very much in force till June, 2008, rejection of the petitioner's request to restore his seniority from the year 1999 for the post of DSP is thoroughly unacceptable. Adding further, it is once again submitted that, when the petitioner had bagged 4 Gold Medals in the years 1996, 1999, 2004 and 2005, he should have been given accelerated promotion for each such gold medal on and from the date of securing the Gold Medal since G.O.Ms.No.468, dated 18.03.1996, stipulated that accelerated promotion be given as and when the occasion arises or on annual basis. However, the petitioner was given the first accelerated promotion only by Memorandum, dated 22.01.1999, issued by the 2nd respondent giving effect from 03.09.1998 vide G.O.Ms.No.1205, dated 03.09.1998. In view of the late promotion by two and half years, he was legally advised to set that promotion right first, on and from 02.04.1996 instead of 03.09.1998. Hence, he made repeated representations, requesting the respondent to re-fix his seniority in the post of Inspector of Police with effect from 02.04.1996 instead of 03.09.1998, however, those representations were disregarded by the Government while giving accelerated promotion to one Mr. Arumugasamy and one Mr.A.Kaliyamoorthy superseding more than 1150 Officers. While concluding his arguments, learned counsel submits that the core contentions of the respondents/Department that one accelerated promotion was already given to the petitioner with effect from 03.09.1998 by order dated 22.01.1999, that the petitioner did not participate in All India Police Duty Meet, hence, he is not eligible for further accelerated promotion and that grant of accelerated promotions is scrapped, are totally unsustainable and bereft of any merit since the claim made by the petitioner for accelerated promotion is only based on 4 Gold Medals obtained in the All

India Police Duty Meet from 1996 to 2005, that is, 1st Gold Medal in 1996, 2nd in 1999, 3rd in 2004 and 4th in 2005. Even if it is presumed that, as against the first Gold Medal, accelerated promotion was given, it was only a conversion from Inspector (Battalion) to Inspector of Police (L & O). Hence, his claim based on the 2nd Gold Medal of 1999 to promote him as DSP from the year 1999 cannot be brushed aside. The petitioner had also secured 52 State-level Gold, Bronze and Silver Medals and he was also a judge in International Shooting Competition. By taking note of the peculiar facts involved in the present case, learned counsel pleaded that the relief sought for may be granted without treating it as a precedent for other cases.

3. Per contra, Mrs.Narmada Sampath, learned Additional Advocate General appearing for the respondents/Department, submitted that, acknowledging the achievements made by the petitioner for having won Gold Medal at the All India Police Duty Meet at Ambala, Haryana, on 02.04.1996, he was given accelerated promotion as Inspector of Police/Category-I by the Government in G.O. Ms.No.1205, Home (Pol.V) Department, dated 03.09.1998. He was promoted as Inspector of Police (Taluk) with effect from 03.09.1998 ie., from the date of issuance of Government Order. His name was included in the 'C' list of Sub Inspectors of Police (Category-I) fit for promotion as Inspectors of Police (Taluk) for the year 1997-98. As per seniority, the petitioner reached the zone of consideration for inclusion in the Panel of Inspectors of Police fit for appointment by recruitment by transfer as Deputy Superintendent of Police/Category-1 for the year 2009-2010. His name was included at Sl No.93 in the temporary panel of DSP/Category-I for the year 2009-10 vide G.O.Ms.No.598, Home (Pol.2) Department, dated 02.07.2010. On 07.07.2010, he was also promoted as DSP Category-I. Continuing her arguments, learned Additional Advocate General further submits that the petitioner, who was directly recruited as Sub Inspector of Police (Tamil Nadu Special Police) in 1987 and promoted as Inspector of Police (Tamil Nadu Special Police) on 08.08.1990, had opted for conversion to Law & Order during 1997. Accepting his undertaking that he would not claim for any promotion in the cadre of S.I./AR/TSP, he was sent for training and allotted to Salem City as Sub Inspector of Police on 20.09.1997. Thereafter, his lien was shifted to Taluk police. That being so, the petitioner has no right to seek for conversion and the Department has absolute justification to negative such claims. Moreover, the grant of accelerated promotion has been subsequently scrapped by virtue of G.O.No.769, Home Department, dated 11.07.2008. Further, Courts have also deprecated the practice of giving accelerated promotion. Thus, there being no merit or ground in the case of the petitioner, the writ petition may have to be dismissed, she pleaded.

4. After hearing both sides, this Court is of the view that the petitioner cannot succeed for the following reasons. Firstly, the petitioner cannot say that he was not given accelerated promotion, for, G.O.Ms.No.1205, Home (Pol.V) Department, dated 03.09.1998, clearly shows that the petitioner was given accelerated promotion to the post of Inspector of Police. Subsequently, he was also considered for the post of Deputy Superintendent of Police/Category-I. By way of G.O.Ms.No.769, Home (Pol.XI) Department, dated 11.07.2008, the Government scrapped the accelerated promotion scheme and also, by subsequent order in G.O.Ms.No.805, Home (Pol.V) Department, dated 07.10.2013, the Government ordered the constitution of a Committee under the Chairpersonship of the Chief Secretary to examine the cases of awarding accelerated promotion to the police personnel who have performed acts of extraordinary bravery and valour in achieving the operational success only. Accordingly, his further request for accelerated promotion to the cadre of Additional DSP was rejected by the Department vide impugned Memo No.024760/GB II(1)/2013, dated 06.08.2014. That being so, the claim of the petitioner that he should be given accelerated promotion from the date of securing the Gold Medal on the ground that G.O.Ms. No.468, dated 18.03.1996 stipulates that such promotion should be given as and when the occasion arises or on an annual basis, cannot now be considered at all. The reason is, the said G.O. itself does not specify that accelerated promotion should be given 'from the date of achievement'. Above all, the petitioner has not challenged G.O.Ms.No.1205, Home (Pol.V) Department, dated 03.09.1998, for giving him accelerated promotion to the post of Inspector of Police-Grade 1, only from the date of issuance of the G.O. and not from the date of achievement. Further, having accepted the benefit derived from the said G.O., he further accepted his inclusion in the panel of Inspectors of Police fit for appointment by recruitment by transfer as DSP for the year 2009-10. His name was also included at Sl.No.93 in the temporary Panel of DSP/Category-I for the year 2009-10 vide G.O.Ms.No.598, Home (Pol.2) Department, dated 02.07.2010. He was also given promotion as DSP/Category-1 on 07.07.2010. Therefore, now, he cannot seek to renew his claim for accelerated promotion based on the first achievement.

5. One more aspect to be pointed out is that, when the Government scrapped the accelerated promotion scheme by virtue of issuing G.O.Ms.No.769, dated 11.07.2008, and by subsequent orders in G.O.Ms.No.805, dated 07.10.2013, a committee was constituted under the Chairmanship of the Chief Secretary to examine the cases of awarding accelerated promotion to those police personnel who have performed acts of extraordinary bravery and valour in achieving the operational success only,

again, the petitioner did not choose to challenge the aforesaid Government Orders for deleting sports achievements. After examining the plea of the petitioner, viz., to fix his seniority from the date of winning of Gold Medal in the All India Police Shooting Competition held at Ambala on 02.04.1996 instead of 03.09.1998 which is the date of issuance of orders in G.O.Ms.No.1205, rightly, the Government, by orders dated 20.09.2007, rejected the same by holding that accelerated promotion is given effect to from the date of order and not from the date of achievement, because, G.O.Ms.No.468, dated 18.03.1996, does not specify that accelerated promotion should be given from the date of achievement. The petitioner has not challenged the said order also and the same has become final. Further, even though the petitioner has cited the instances of extraordinary consideration for his colleagues in granting accelerated promotion, except such general pleading, his claim is not supported by any material to show that such accelerated promotion was given to them purely based on Sports Achievements. At any rate, when the scheme for granting accelerated promotion for sports achievements is no longer in existence and the petitioner was also given one accelerated promotion as aforementioned, the prayer of the petitioner, in a way seeking to reopen his case for fixing seniority from the date of winning the first Gold Medal, cannot be considered.

6. This apart, in a similar instance where the accelerated promotion given to the police personnel involved in the operation against the Forest Brigand Veerappan, a Division Bench of this Court, in the Judgment dated 05.04.2013, rendered in Writ Appeal Nos.849 to 854 of 2010, etc., held that executive instructions cannot override the statutory rules. It was further held therein that if the accelerated promotees are given seniority in the higher cadre it will affect the promotion of the person senior to the accelerated promotees in the lower cadre and it will lead to the situation of reduction of rank of their seniors in the lower category and the same is contrary to General Rule 35(a) and 35(aa) and natural justice which will affect the morale of the entire police force.

7. In view of the foregoing discussion, this Court finds no merit whatsoever in the writ petition and it is dismissed, accordingly. No costs.

Sd/-

Assistant Registrar(CS-ix)

//True Copy//

Sub Assistant Registrar

To

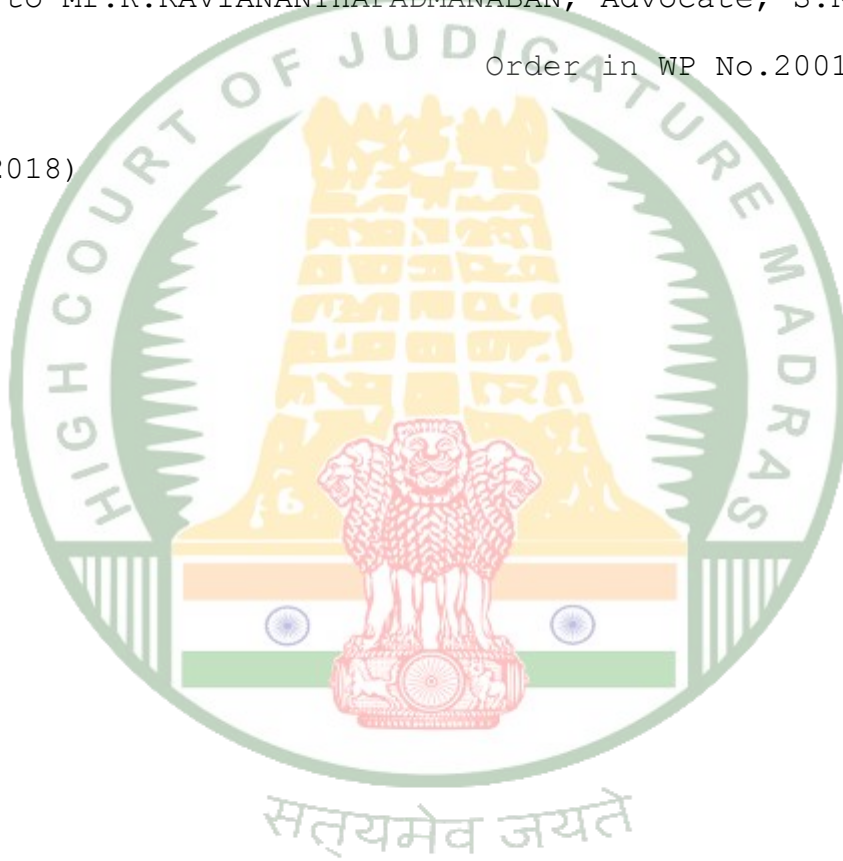
1. The Secretary, Home
(Police V) Department Secretariat,
Fort St. George,
Chennai 600 009.

2. The Director General
of Police,
Dr. Radhakrishnan Road,
Mylapore, Chennai 600 004.

+1cc to Mr. K. RAVIANANTHAPADMANABAN, Advocate, S.R.No. 34956

Order in WP No. 20018/2016

NRI (CO)
TR(25/06/2018)



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