

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.01.2018

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THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.1612 of 2018

K.Selvam

..Petitioner

-vs-

1. State of Tamil Nadu
represented by its Home Secretary
Fort St.George
Chennai 600 009
 2. The Director General of Police
Kamarajar Salai
Mylapore
Chennai 600 004
 3. The Commissioner of Police
No.132, EVK Sampath Road
Vepery, Periyamet
Chennai 600 007
- ..Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, to quash the order passed by the second respondent vide Order No.Rc.No.161257/NGB III(2)/2016 dated 31.03.2017 and directing the second respondent to grant notional promotion coupled with consequential monetary and service benefits such as re-fixation of seniority, pay and pension.

For Petitioner :: Mr.R.Karthikeyan

For Respondents:: Mr.V.Kadhirvelu
Special Government Pleader

ORDER

The petitioner is a retired Sub Inspector of Police with effect from 29.2.2012. Learned counsel for the petitioner submitted that the petitioner was denied the benefit of upgradation at various levels. Therefore, after his retirement on 29.2.2012 from the post of Sub Inspector of Police, he has made a representation and the same was also rejected by the impugned order dated 31.3.2017. The said impugned order states

that the upgradation scheme was introduced and the benefit was given to police personnel only prospectively and his claim on the basis of G.O.Ms.No.844, Home (Pol.V) Department dated 3.6.97 and another G.O.Ms.No.937, Home (Pol.III) Department dated 21.7.98 cannot be accepted retrospectively. Having given upgradation to similarly placed Grade I Police Constables, Head Constables and Special Sub Inspectors of Police retrospectively pursuant to the orders passed by this Court, there is nothing wrong in giving the same benefit to the petitioner. Therefore, the negation of the petitioner's prayer on the ground that the upgradation scheme was introduced and the benefit was given only prospectively and it cannot be given retrospectively, is untenable and unjustified, he pleaded.

2. Heard the learned Special Government Pleader for the respondents.

3. Before proceeding into the merits of the matter, it may be mentioned that when the petitioner, on reaching the age of superannuation on 29.2.2012, while serving as Sub Inspector of Police, retired from service, it is not known why the petitioner kept quiet for a long time after his retirement to ask for the benefit of upgradation. Secondly, when it is the claim of the petitioner that he was appointed as Grade II Police Constable on 7.11.75 and on completion of ten years of service, he should have been upgraded as Grade I Police Constable on 7.11.85, whereas he was given upgradation only in the year 1993 and again, when he was due for further upgradation to the post of Head Constable on 7.11.90 on completion of five years of service as Grade I Police Constable, but he was wrongly given upgradation in the post of Head Constable on 14.1.98, the petitioner should have given his representation immediately, which has not been done. Moreover, it is stated that the petitioner was promoted as Sub Inspector of Police on 7.10.2004, which also he accepted quietly, and then, after serving in the said post of Sub Inspector of Police for about eight long years from 7.10.2004 to 29.2.2012, he cannot rake up this issue after his retirement. Further, the Government, nowhere in any of the Government Orders, provided for any such upgradation, as claimed by the petitioner. Under similar circumstances, a learned Judge of this Court, D.Hariparanthaman, J. has already passed a detailed order in W.P.No.19181 of 2013 dated 15.7.2013 (S.Senthamarai and others v. The State of Tamil Nadu represented by its Secretary to Government, Home Department and two others), wherein it has been held as follows:-

"18. No Government Order states that all the police personnel shall be granted upgradation as Sub Inspector of Police on completion of 25 years of service, blindly, without anything more, even if he does not render 10 years of service as Head Constable out of 25 years of

service. The Government Orders nowhere provide for such upgradation as claimed by the petitioners.

19. Hence, there is no reason for the petitioners to claim the benefit of upgradation of Special Sub Inspector of Police, by counting 25 years of service from the date of their appointment without reference to the services rendered as Head Constable for 10 years of service. On completion of 10 years of service as Head Constable, one can seek for upgradation as Special Sub Inspector of Police, if he has rendered a total service of 25 years of service.

20. In this case the petitioners were rightly granted upgradation for the post of Special Sub Inspector of Police on completion of 10 years of service as Head Constable, as they have put in 25 years of total service. Now the petitioners want upgradation as Special Sub Inspector of Police even before they were upgraded as Head Constables and that is not permissible.

21. I do not find any merit in the Writ Petition. The Writ Petition fails and the same is dismissed. No costs. The connected Miscellaneous Petition is closed."

4. Following the above order, I have also considered a similar challenge made to the very same impugned order in W.P.Nos.1571 to 1573 of 2018 and rejected the case of the petitioners therein by order dated 25.1.2018. Learned counsel for the petitioner submitted that since the W.A.Nos.242 & 243 of 2014 etc., batch cases are pending before this Court, this matter also may be tagged along with the said writ appeals. But this Court is unable to find any merit to tag this matter along with the aforementioned W.A.Nos.242 & 243 of 2014 etc., batch. The reason being that the learned single Judge of this Court had already decided the issue in W.P.No.19181 of 2013 on 15.7.2013 (S.Senthamarai and others v. The State of Tamil Nadu represented by its Secretary to Government, Home Department and two others). Following the said order, I have also passed orders in W.P.Nos.1571 to 1573 of 2018 dated 25.1.2018. Moreover, the learned counsel for the petitioner is not able to explain whether the Writ Appeal Nos.242 & 243 of 2014 etc., are related to the same issue by producing any affidavit or other relevant materials. In such circumstances, judicial discipline demands

this Court to fall in line with the previous order passed by the learned single Judge in W.P.No.19181 of 2013 dated 15.7.2013 and followed by me. Therefore, this Court finds no merit whatsoever in this writ petition, leave alone the ground of delay. Accordingly, this writ petition is dismissed. Consequently, W.M.P.No.2024 of 2018 is also dismissed. No costs.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1. The Secretary to Government
Home Department
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Chennai 600 009
2. The Director General of Police
Kamarajar Salai, Mylapore
Chennai 600 004
3. The Commissioner of Police
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+1 CC to M/s. R. Karthikeyan, Advocate sr 6136.

+1 CC to The Govt. Pleader sr 6972.

सत्यमेव जयते

W.P.No.1612 of 2018

GMI (CO)
SP(14/02/2018)

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