

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.01.2018

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THE HONOURABLE Mr.JUSTICE V.PARTHIBAN

W.P.No.14844 of 2012

S.Natarajan

... Petitioner

Vs

1.The Superintendent of Police,
District Police Office,
Kanchipuram District.

2.The Deputy Inspector General of Police,
Kanchipuram Range,
Kanchipuram.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorarified Mandamus, to call for the records in Na.Ka.No.A1/23187/2011 dated 24.02.2012 on the file of the 1st respondent and quash the same and consequentially direct the respondents to advance the petitioner's date of promotion as Grade I PC from 25.07.1995 to 01.08.1994 and as Head Constable from 25.07.2000 to 01.08.1999 by fixing notional pay and allowances and further promote him to the upgraded post of Special Sub Inspector of Police on completion of 25 years of service w.e.f. 01.08.2009 and notionally fix his pay in the scale of pay applicable to Special Sub Inspector of Police and step up his pension benefits.

For Petitioner : Mr.N.S.Nandakumar

For Respondents : Mr.D.Venkatachalam
Additional Government Pleader

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O R D E R

Heard Mr.N.S.Nandakumar, learned counsel for the petitioner and Mr.D.Venkatachalam, learned Additional Government Pleader appearing for the respondents.

2. The petitioner has approached this Court, seeking the following relief,

"To issue a writ of Certiorarified Mandamus, to call for the records in Na.Ka.No.A1/23187/2011 dated 24.02.2012 on the file of the 1st respondent and quash the same and consequentially direct the

respondents to advance the petitioner's date of promotion as Grade I PC from 25.07.1995 to 01.08.1994 and as Head Constable from 25.07.2000 to 01.08.1999 by fixing notional pay and allowances and further promote him to the upgraded post of Special Sub Inspector of Police on completion of 25 years of service w.e.f. 01.08.2009 and notionally fix his pay in the scale of pay applicable to Special Sub Inspector of Police and step up his pension benefits."

3. The case of the petitioner is as follows:-

The petitioner joined as Grade II Police Constable on 01.08.1984 and promoted as Grade I Police Constable on 22.07.1997 and as Head Constable on 22.07.2002. The petitioner took voluntary retirement and retired from service on 30.09.2009, after rendering 25 years and 2 months of unblemished service.

4. The Government has issued G.O.Ms.No.844 dated 03.06.1997, in and by which, the promotion to the post of Grade I Police Constable from Grade II Police Constable would be effected on completion of 10 years of service and thereafter, on completion of 5 years of service as Grade I Police Constable, further upgradation of Head Constable is to be given under the said Government Order. As per the above Government Order, the petitioner was entitled to be promoted as Grade I Police Constable on 01.08.1994 and thereafter, as Head Constable, on completion of five years of service in 1999, instead of 22.07.1997 as Grade I Police Constable and 22.07.2002 as Head Constable.

5. According to the petitioner, all the similarly placed constables were given promotion as such on their completion of 10 years and 5 years of service from the date of their appointment. While matter stood thus, the promotion of the petitioner was subsequently modified as 25.07.1995 as Grade I Police Constable and 25.07.2000 as Head Constable. A further Government Order was issued in G.O.Ms.No.15 dated 07.01.2010, providing upgradation to the post of Special Sub Inspector of Police, on completion of 25 years of total service as Police Constable Grade II, Grade I and Head Constable.

6. According to the petitioner, had he been granted promotion as Grade I Police Constable in 1994 and thereafter as Head Constable in 1999, he would have become eligible to be upgraded as Special Sub Inspector of Police in 2009, before his retirement. According to him, all similarly placed Police Constables have been granted such promotion exactly on the date of completion of 10 years and 5 years as the case may be, the petitioner alone is singled out for a differential treatment.

7. Upon notice, learned Additional Government Pleader appearing for the respondents, entered appearance and filed a detailed counter affidavit. In the counter affidavit, it is stated that the Government Order was issued only in 2010, providing for upgradation as Special Sub Inspector of Police. The petitioner having retired earlier to the issue of the Government Order cannot seek the benefit of the Government Order. However, in respect of the petitioner's averment regarding other similarly placed persons being granted promotion on completion of 10 years and 5 years of service as Police Constable Grade I and Head Constable, it is admitted in the counter affidavit in paragraph 5 that the Police personnel belonging to 1985 batch have been modified taking into account of the actual date of completion of 10 years of Grade II Police Constable and 5 years of Grade I Police Constable respectively as per orders issued by the Government in Letter No.769, Home (Pol.V) Department, dated 28.07.2010 and Office Memo dated 18.08.2010.

8. In view of the clear admission by the respondents in their reply, the claim of the petitioner is further strengthened for the reason that the petitioner could not be treated differently for the purpose of grant of upgradation of Special Sub Inspector of Police as provided for in G.O.Ms.No.15 dated 07.01.2010.

9. The learned counsel for the petitioner would submit that when the department has granted the benefit of promotion of upgradation on the date of completion of exact years of service as provided, the petitioner alone had been given promotion as Grade I Police Constable and Head Constable little later, thereby depriving him due upgradation of Special Sub Inspector of Police.

10. There is a considerable force in the above said submission of the learned counsel for the petitioner, particularly, in view of the admitted averments that the similarly placed persons have been granted the benefit of promotion or upgradation on the date when those Police personnels completed 10 years and 5 years of service as the case may be.

11. In the said circumstances, this Court has no hesitation in allowing the writ petition. Therefore, the impugned order in Na.Ka.No.A1/23187/2011 dated 24.02.2012, on the file of the 1st respondent, rejecting the claim of the petitioner on the stated ground is unsustainable in law. Therefore, the same is set aside. The respondents are directed to grant the benefit of promotion as Grade I Police Constable on the date when the petitioner completed 10 years of service and Head Constable on completion of 5 years of service. Thereafter, grant further notional promotion as Special Sub Inspector of Police on completion of 25 years of service by granting fixation of pay to the petitioner and also further

revise the pension on such basis. The said order shall be complied with by the respondents within a period of 10 weeks from the date of receipt of a copy of this order.

12. With the above direction, the writ petition stands allowed. No costs.

gsk

Sd/-

Assistant Registrar

/TRUE COPY/

Sub-Assistant Registrar

To

- 1.The Superintendent of Police,
District Police Office,
Kanchipuram District.
- 2.The Deputy Inspector General of Police,
Kanchipuram Range,
Kanchipuram.

+1CC to Mr.N.S.Nandakumar Advocate vide CA SR.NO.5913

+1CC to GP Vide CA SR.NO.5825

W.P.No.14844 of 2012

MK:20/02/2018

सत्यमेव जयते

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