

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.01.2018

CORAM:

THE HON'BLE MR. JUSTICE V. PARTHIBAN

W.P. No.15641 of 2012

K. Eswaran

Petitioner

vs

1 The Principal Secretary to Government
Home (Police VIII) Department
Secretariat
Chennai 600 009

2 The Director General of Police
Tamil Nadu
Chennai 600 004

3 The Superintendent of Police
District Police Office
Erode District

Respondents

Writ Petition filed Article 226 of the Constitution of India seeking a writ of mandamus directing the first respondent to consider the petitioner's representation dated 07.04.2012 given for accelerated promotion as Sub Inspector of Police with effect from 26.02.2006 in the light of G.O. Ms.No.153, Home (Pol.VIII) Department dated 26.02.2006 and G.O. Ms.No.1074 and Home (Pol. VIII) Department dated 07.11.2006 and pass orders within a stipulated time.

For petitioner Mr. Ravi Shanmugam

For respondents Mr. T.M. Pappiah
Special Government Pleader

ORDER

With the consent of the learned counsel on either side, this writ petition is taken for final disposal.

2 This writ petition has been preferred seeking a writ of mandamus directing the first respondent to consider the petitioner's representation dated 07.04.2012 for grant of accelerated promotion as Sub Inspector of Police with effect

from 26.02.2006 in the light of G.O.Ms.No.153, Home (Pol.VIII) Department dated 26.02.2006 and G.O. Ms.No.1074 and Home (Pol. VIII) Department dated 07.11.2006.

3 The petitioner joined the Police Department as Grade II Police Constable on 07.01.1986 and he was promoted as Grade I Police Constable on 07.01.1999. He was further promoted as Head Constable on 08.01.2004. While so, he was posted in the Special Task Force, Erode District from 07.04.1998 to 04.06.2001 for a period of three years. The Special Task Force was formed to nab the notorious forest brigand Veerappan and his associates. The petitioner was part of the Special Task Force during the above said period and was providing vital information about the movement of Veerappan and his allies.

4 While serving in the Special Task Force, the petitioner was also paid Risk Allowance of Rs.500/- per month and for the valuable information he provided for the Force, he was also granted monetary reward. After the forest brigand was nabbed and killed by the members of the Special Task Force, the Government issued a slew of orders granting cash rewards and accelerated promotion to hundreds police personnel and other staff associated with the Special Task Force. The Government, particularly in G.O. Ms.No.1237, Home (Pol.VIII) Department dated 27.10.2004, granted accelerated promotion and cash rewards for 757 police personnel who worked in the Special Task Force for 2½ years, followed by another Government Order in G.O.Ms.No.1346, Home (Pol.VIII) Department dated 06.12.2004 granting accelerated promotion and cash rewards for 163 police personnel and further, G.O. Ms.No.153, Home (Pol.VIII) Department dated 26.02.2006 was also issued granting the same benefit to 23 police personnel. Since the petitioner had served in the Special Task Force for over three years, which fact is not controverted, he submitted a representation on 08.01.2007 seeking the benefit as extended to other police personnel who served in the Special Task Force by virtue of various Government Orders referred to above.

5 Several police personnel who served in the Special Task Force and who were left out from the grant of benefit of cash rewards and accelerated promotion, approached this Court in W.P. Nos.2397 of 2008 etc. batch and this Court, by a common order dated 20.03.2014, allowed the said batch of writ petitions and directed the Government to grant the benefit as contemplated under G.O. Ms.No.153, Home (Pol.III) Department dated 26.02.2006. The relevant portion of the said order reads thus:

"14 Thus, the arguments advanced before the Division Bench and the observation of the Division Bench as referred to above would make it very clear that the accelerated promotion was not on any

statutory rules or appraisal of individual's merit and ability and not on appraisal of actual bravery action of individual members of Special Task Force and ability and not based on the individual's role in the action and the nature of the risk taken by the individual and it was grouped action, based on which, the accelerated promotions were given to the persons, who took part in the Special Task Force Operation, apart from other persons.

15 This being the state of affairs, as admitted by learned Advocate General in the earlier case and as accepted and observed by the Division Bench of this Court, the petitioners request for similar benefit cannot be denied on the ground that the role played by them was not significant role, which is not the case for other police personnel, who were en masse granted the benefit. When the benefit is awarded to the personnel who took part in SPF, without reference to statutory rules or appraisal of individual's merit and ability, the question of denying the same to the petitioners is arbitrary, baseless and biased.

16 It is also noteworthy to mention at this juncture that the respondent has not denied the petitioners' involvement and participation in the Special Task Force Operation in one capacity or other. Hence, the impugned order denying benefit of the award to the petitioners, who are also similarly placed persons, is in violation of the right of equality guaranteed under the Constitution and the same cannot be legally unsustainable (sic) sustainable.

In the result, all the writ petitions are allowed and the impugned order stands quashed, with direction issued to the first respondent to grant the petitioners the benefit of one time accelerated promotion and cash reward in recognition of their services rendered in the Special Task Force operation as per G.O.Ms.No.153, Home (Pol. VIII) Department dated 26.02.2006. The above exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of this order. No costs."

6 The aforesaid order was appealed against by the State in W.A. Nos.552 to 557 of 2015 and a Division Bench of this Court upheld the order passed by the learned Single Judge vide a common judgment dated 02.07.2015.

7 In the above backdrop, the petitioner claims parity in

treatment in the matter of grant of accelerated promotion, etc. under the aforementioned Government Orders.

8 Mr. Ravi Shanmugam, learned counsel for the petitioner, would strenuously contend that the claim of the petitioner is squarely covered under various Government Orders, as aforesaid, and also the order dated 20.03.2014 passed by the learned Single Judge in W.P.Nos.2397 of 2008 etc. batch and the judgment dated 02.07.2015 rendered by the Division Bench of this Court as well in W.A. Nos. 552 to 557 of 2015.

9 The learned counsel for the petitioner would further submit that the petitioner, having served in the Special Task Force for more than three years continuously and having provided vital and valuable information to the Force in regard to the operation of the forest brigand Veerappan and his allies, he ought to have been granted the benefit of accelerated promotion and cash rewards; but, unfortunately, he was singled out by denying the legitimate benefits due to him. According to the learned counsel, the petitioner's superior officer has also recommended for consideration of his claim, despite which, no orders came to be issued by the authority concerned and therefore, the petitioner is constrained to approach this Court seeking a writ of mandamus, as stated above.

10 The learned Special Government Pleader opposed the grant of relief as sought by the petitioner.

11 From the averments made in the affidavit filed in support of this writ petition and from the materials and pleadings placed on record, it is noteworthy that the petitioner herein is similarly placed as that of the police personnel who have got accelerated promotion and monetary rewards by virtue of various Government Orders, including G.O. Ms.No.153, Home (Pol. VIII) Department dated 26.02.2006. Moreover, the similarly placed police personnel, who were aggrieved by non-inclusion of their names, had approached this Court by preferring writ petitions and obtained orders in their favour and the order passed in the said batch of writ petitions has also been upheld by the Division Bench and seemingly, the same is also accepted by the State and benefits granted to such of those police personnel who were parties in the above proceedings. When such is the position, this Court does not see any justification on the part of the respondents in treating the petitioner differently. Albeit no orders have been passed either granting or denying the benefits as admissible to the petitioner, the fact that no action has been initiated in favour of the petitioner for all these years would only go to show that the Department is not inclined to consider the petitioner's claim favourably, notwithstanding the various Government Orders passed

by the Department covering hundreds of police personnel in this regard.

12 Such inaction on the part of the Department is, per se, discriminatory, unacceptable and unjust and therefore, violative of Article 14 of the Constitution of India. When concededly the petitioner was deployed in the Special Task Force between 07.04.1998 to 04.06.2001 for a period of over three years, denial of benefit of accelerated promotion, etc. to the petitioner cannot, therefore be countenanced, both in law and on facts. When the fact of his association with the Special Task Force has not been controverted and in fact, when the benefit of cash reward and promotion has been extended to other staff members of the Special Task Force, the denial of such benefit to the petitioner is, beyond any cavil, discriminatory and as such, cannot stand the test of judicial scrutiny.

In the above circumstances, this Court has no incertitude in allowing this writ petition as prayed for and accordingly, this writ petition stands allowed with a direction to the first respondent to pass appropriate orders on the petitioner's representation dated 07.04.2012 qua grant of accelerated promotion as Sub Inspector of Police with effect from 26.02.2006 on the basis of G.O. Ms. No.153, Home (Pol.III) Department dated 26.02.2006 and G.O. Ms.No.1074, Home (Pol.III) Department dated 07.11.2016 with effect from the date on which the other similarly placed police personnel were granted such benefit and other consequential benefits, within a period of eight weeks from the date of receipt of a copy of this order. No costs.

Sd/-
Assistant Registrar (CCC)

//True copy//

सत्यमेव जयते
Sub Assistant Registrar

cad
To

- 1 The Principal Secretary to Government
Home (Police VIII) Department
Secretariat
Chennai 600 009
- 2 The Director General of Police
Tamil Nadu
Chennai 600 004

3 The Superintendent of Police
District Police Office
Erode District

+1cc to Mr.Ravi Shanmugham, Advocate SR.No.6083
+1cc to Government Pleader SR.No.6188

W.P. No.15641 of 2012

GN(13/02/2018)



WEB COPY