

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :25.06.2018

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THE HONOURABLE Mr.JUSTICE V.PARTHIBAN

W.P.No.16667 of 2013

T.Chelladurai

... Petitioner

Vs

1.The State of Tamil Nadu

Rep by the Deputy Secretary to Government,
Home (Police-5) Department,
Secretariat,
Fort St. George,
Chennai-600 009.

2.The Director General of Police,
Mylapore,
Chennai-600 004.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records of the 1st respondent in G.O.(2D) No.120 Home (Police - 5) Department, dated 08.04.2013 and quash the same and consequently direct the respondents to issue accelerated promotion and further grant all attendant benefits to the petitioner.

For Petitioners : Mr.Abishek Jenasenan

For Respondents : Mr.J.Pothiraj,
Special Government Pleader

O R D E R

Heard Mr.Abishek Jenasenan, learned counsel for the petitioner and Mr.J.Pothiraj, learned Special Government Pleader appearing for the respondents.

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

"To issue a Writ of Certiorarified Mandamus, calling for the records of the 1st respondent in G.O. (2D) No.120 Home (Police - 5) Department, dated

08.04.2013 and quash the same and consequently direct the respondents to issue accelerated promotion and further grant all attendant benefits to the petitioner."

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

The petitioner was appointed as Constable in the Police Department on 05.09.1968. In 1968, 1974 and 1977, the petitioner was selected to undergo Course of Instruction of the John Ambulance Association in FIRST AID TO THE INJURED and successfully passed the same. The petitioner was also selected to participate in the competition viz., Tamil Nadu Special Police Games and Athletics Meet in 1974. In the competition, the petitioner stood first and won Gold Medal on three occasions. According to the sports achievements of the petitioner, he won first prize in three times Gold Medal in All India Duty Meet, two times Gold Medal in State Duty Meet and two Times Gold Medal in Inter Meet between battalion. Besides, the petitioner has won cash rewards and commendations on more than 150 occasions. According to the petitioner, he served the Police Department with unblemished service.

4. According to the petitioner, the police personnel who had achieved gold medal (first place) in sports events were given accelerated promotion under the Scheme framed by the State. Since he having won Gold Medal on several occasions and also commendations over 150 times, he was expecting that he would be considered for accelerated promotion. In fact, one Muthukamatchi who had participated along with the petitioner in the sports meet in 1974, was granted accelerated promotion, though he had won only second prize in the sports meet. The said Muthukamatchi was granted accelerated promotion in 1979, whereas the petitioner was ignored although he won Gold Medal, for no valid reasons. It appeared that in 1988, his case was recommended by the competent authority. However, despite the recommendations, the Government failed to grant him accelerated promotion without spelling out any reasons.

5. In this connection, the petitioner periodically submitted representations one after the other to various authorities over a period of time. But finally a reply was sent by the 1st respondent on 12.02.2002, stating that the claim of accelerated promotion cannot be acceded to without spelling out any reasons in the communication. The petitioner in this regard has also approached this Court in W.P.No.3150 of 2006 challenging the denial of accelerated promotion. In the mean while, the petitioner had attained the age of superannuation retired from service on 30.06.2008. After his retirement, this Court disposed of the writ petition on 30.04.2011, directing the

petitioner to submit a comprehensive representation to the authority and the authority was directed to consider and pass orders within a period of twelve weeks.

6. In pursuance of the above direction passed by this Court, the Government on 08.04.2013 passed in G.O. (2D) No.120 Home (Police-5) Department, rejected the claim for two reasons viz., one is that the scheme providing accelerated promotion had been abolished vide G.O.Ms.No.769, dated 11.07.2006 and that the claim of the petitioner was belated and no records were available for considering the request of the petitioner. The said rejection order dated 08.04.2013 is being assailed in the present writ petition.

7. Upon notice, Mr.J.Pothiraj, learned Special Government Pleader entered appearance for the respondents and filed a counter affidavit.

8. In the counter affidavit, it is admitted that originally the petitioner's name was recommended to the Government for accelerated promotion, however, the proposal was not considered by the Government. It is also an admitted fact that the said Muthu kamatchi, who had also participated along with the petitioner in Sports Meet, had been granted accelerated promotion. However in the counter affidavit nothing has been stated as to how the claim of the petitioner herein has been less deserving than the claim of the said Muthu Kamatchi. In the counter affidavit, there is no whisper as to why the petitioner could not be granted accelerated promotion at the appropriate time. The reasons for rejection that the accelerated scheme was scraped vide G.O.Ms.No.769 dated 11.07.2008 cannot be held against the petitioner, since his claim for accelerated promotion was on par with the said Muthukamatchi, who was granted accelerated promotion in 1979. Admittedly at that point of time, the scheme providing for accelerated promotion was in vogue. The other reason that it was belated claim made by the petitioner and therefore, the same could not be considered and also cannot be countenanced. The petitioner had approached this Court earlier in W.P.No.3150 of 2006 and after hearing the parties, this Court had given a direction to consider the claim of the petitioner on merits. Such being the case, it is not open to the authority to reject the claim of the petitioner being belated.

9. From the materials and pleadings placed on record, this Court is unable to find any material fact which is against the petitioner for not granting him accelerated promotion at the appropriate time.

10. On the other hand, there appears to be overwhelming materials in favour of the petitioner for being considered for accelerated promotion at the appropriate time. In fact, originally his name was recommended for such promotion in 1988 but strangely such recommendation was not acted upon, particularly despite the sporting achievements by the petitioner.

11. Although this Court is conscious of the fact that the petitioner has been more than casual in approaching this Court belatedly in the earlier round of litigation, since the original cause of action had arisen in somewhere in the late of 1970s, however the fact of the matter is that the petitioner having rendered blemish-less service with exceptional sporting achievements cannot be denied his due promotion. On the basis of scheme framed by the Government of Tamil Nadu at the relevant point of time providing for accelerated promotion for such talented Police Personnel, it is needless to mention that such gesture had to be shown to the petitioner even if the claim is belated. Such gesture would go a long way in encouraging persons like the petitioner as talented sports personnel served in the police force and would also alleviate his financial conditions in the form of pensionary benefits, on such accelerated promotion being granted notionally.

12. In view of the above, this Court hereby sets aside the impugned G.O.(2D) No.120 Home (Police - 5) Department, dated 08.04.2013 and directs the respondents to grant accelerated promotion in terms of original scheme which was effected during the time the said Muthukamatchi was granted accelerated promotion and on such accelerated promotion being granted on notional basis, the petitioner's pay has to be fixed notionally. However, it is made clear that the petitioner is entitled to the pensionary benefits and on such accelerated promotion being granted to the petitioner with arrears of pension. The respondents are directed to pass appropriate orders in this regard within a period of twelve weeks from the date of receipt of a copy of this order.

13. With the above direction, this Writ Petition is allowed. No costs.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

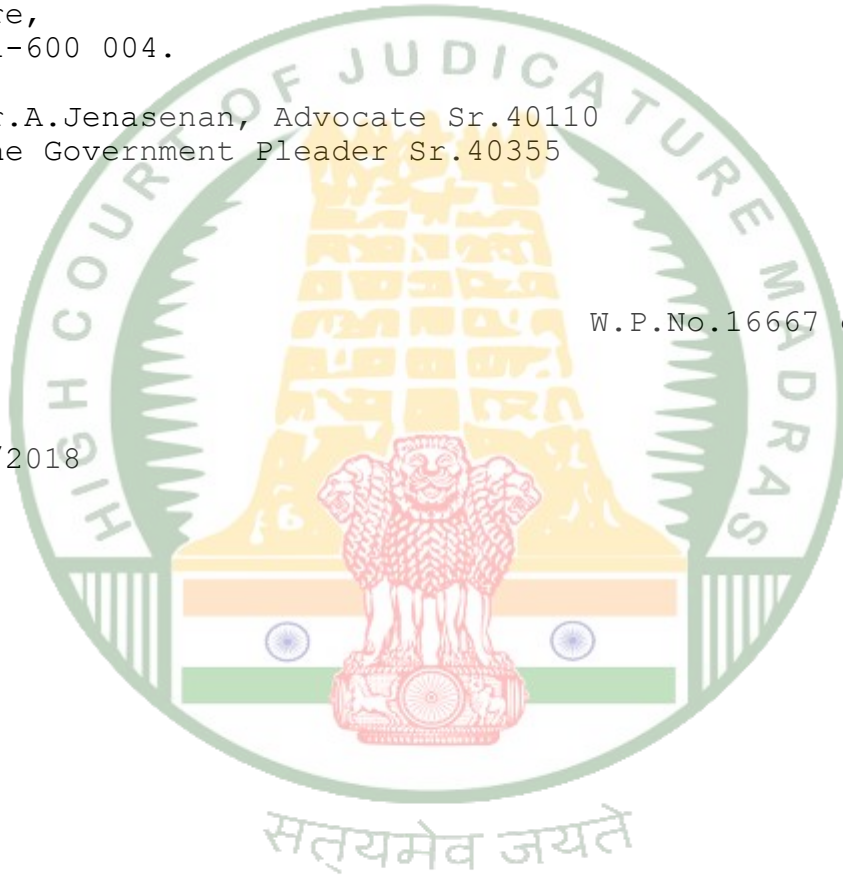
1.The Deputy Secretary to Government,
The State of Tamil Nadu
Home (Police-5) Department,
Secretariat,
Fort St. George,
Chennai-600 009.

2.The Director General of Police,
Mylapore,
Chennai-600 004.

+1cc to Mr.A.Jenasenan, Advocate Sr.40110
+1cc to the Government Pleader Sr.40355

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