

IN THE HIGH COURT OF JUDICATURE AT MADRAS
Dated : 20.02.2018

CORAM:
THE HON'BLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HON'BLE MR.JUSTICE P.VELMURUGAN

W.A No.708 of 2016 and
C.M.P.No.9266 of 2016

The Inspector General of Prisons/
Additional Director General of Police
Tamil Nadu, Chennai -8. Appellant

-vs-

B.Julius Ruban Mascarenhas Respondent

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent against the order passed in W.P. No.3079 of 2014 dated 03.02.2014.

WP.No.3079/2014:WP presented under Art 226 of the Constitution of India to issue a writ of certiorarified mandamus or any other appropriate writ or order or direction in the nature of writ calling for the records of the respondent in connection with the impugned orders passed by respondent in Ref. No.29804/ EW2/2012 dated 9.11.2012 and quash the same in so far as the petitioner is concerned and direct the respondent to consider the claim of the petitioner for promotion to the post of Grade I Warder for the year 2012-2013 and promote the petitioner as Grade I Warder and grant him all service monetary benefits at par with his juniors.

For Appellant : Mrs.A.SriJayanthi
Spl.Govt.Pleader

For Respondent : Mr.K.Venkatramani
Senior Counsel for Mr.M.Muthappan

J U D G M E N T

[Judgment of the Court was delivered by
K.K. SASIDHARAN,J.]

The Prisons Department initiated disciplinary proceedings against the respondent and after the conclusion of such proceedings, he was imposed with the punishment of reduction of salary in two stages for a period of one year without cumulative effect. The order was passed on 19 September 2010. The respondent suffered the punishment and thereafter, his salary was restored to the original position with effect from 1 October 2011. His next promotion was to the post of Grade-I Warder. The crucial date was on 24 October

2012. The name of the respondent was not considered for promotion on the ground of currency of punishment. The order dated 9 November 2012 drawing the panel for promotion was challenged before the Writ Court. The learned single Judge having found that there was no currency of punishment so as to deny promotion to the respondent quashed the order and a Mandamus was issued to consider him for promotion to the post of Grade-I Warder for the year 2012-2013. The order is under challenge at the instance of the State.

2. We have heard the learned Special Government Pleader for the appellant. We have also heard the learned Senior Counsel for the respondent.

3. The disciplinary authority imposed the punishment on the respondent by order dated 19 September 2010. The punishment was reduction of salary in two stages for a period of one year without cumulative effect. The punishment got expired by 1 October 2011. It is a matter of record that the salary of the respondent was restored to the original position with effect from 1 October 2011.

4. The respondent was due for promotion to the post of Grade- I Warder. The appellant published the promotion list on 24 October 2012. The claim of the respondent was rejected on the ground that the punishment falls during the check period.

5. The learned single Judge found that the respondent suffered the punishment and the period expired on 1 October 2011. There was no currency of punishment as on the date on which the list was prepared taking into account the crucial date. There is no question of denying promotion to the respondent even after the expiry of punishment. It is true that the authorities are empowered to take into account the period of five years before the cut off date for considering the name for promotion. However, in the case of the respondent, there was only one misconduct and the punishment of the same expired on 1 October 2011. There was no justifiable reason to deny the promotion to the respondent on account of the punishment undergone by him and which got expired on 1 October 2011. We are therefore of the view that the learned single Judge was justified in quashing the impugned order.

6. The learned single Judge directed the appellant to consider the case of the respondent for promotion to the post of Grade-I Warder for the year 2012-2013. Since the said list has already been operated, we direct the appellant to consider the case of the respondent for promotion to the year 2013-2014. Such exercise shall be completed within a period of three months from the date of receipt of a copy of this judgment.

7. The intra court appeal is disposed of with the above direction. No costs. Consequently, connected miscellaneous petition is closed.

svki

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

To

The Inspector General of Prisons/
Additional Director General of Police
Tamil Nadu, Chennai -8.

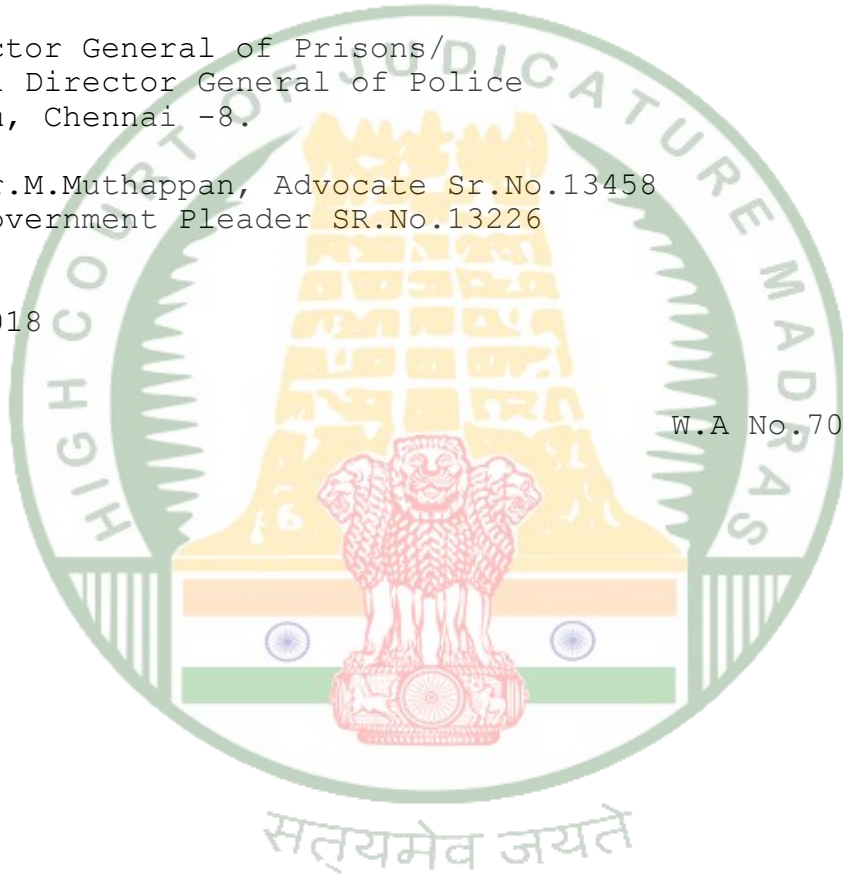
+1cc to Mr.M.Muthappan, Advocate Sr.No.13458

+1cc to Government Pleader SR.No.13226

RSY(CO)

sm:20.3.2018

W.A No.708 of 2016



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