

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.12.2018

CORAM:

THE HON'BLE Dr. JUSTICE S.VIMALA
Writ Petition No.32657 of 2018

D.Shanmugam

... Petitioner

..vs..

1. The State of Tamil Nadu, Rep. by its Home Secretary,
Fort St. George, Chennai - 9
 2. The Director General of Police,
Kamaraj Salai, Mylapore, Chennai 600 004
 3. The Deputy Inspector General of Police, Salem Range,
Salem
 4. The Superintendent of Police,
Salem District, Salem
- ... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents directing the respondents to consider petitioner's representation dated 28.11.2018 and to correct the date of promotion of the petitioner on up gradation as Special Sub Inspector of Police (SSI) on 22.9.2005 instead of 7.1.2010 on overall completion of 25 years of service as G.O.Ms.No.15 Home (Police V) Department dated 7.1.2010 and Judgment dated 17.6.2013 in WAMD Nos.1506/2011 of Madurai Bench of Madras High Court and revise the pension and other monetary benefits accordingly and pay the arrears with interest accrued thereon.

For Petitioner : Mr. S.Pushpakaran

For Respondents : Mr. A.N.Thambidurai, Spl.G.P.,

O R D E R

This writ petition has been filed by the petitioner seeking directions to the respondents to consider the petitioner's representation, dated 28.11.2018 claiming notional time bound promotion with consequential monetary benefits.

2. Mr.A.N.Thambidurai, learned Special Government Pleader, takes notice for the respondents. With consent of the learned counsel appearing for both sides, the writ petition is taken up for final disposal at the admission

stage itself.

3. The learned counsel appearing for the petitioner would bring the attention of this Court to the observations made by the learned Single Judge in W.P.(MD) No.2642 of 2013 (P.Venkatasamy (Retd. SI-1090) v. The Government of Tamil Nadu and two others), wherein there was a positive direction, after quashing the order revising the time bound promotion. The relevant observation reads as under:-

"5. In this case, the petitioner joined the service as Police Constable Grade II on 13.12.1971 and therefore, he ought to have been upgraded as Grade I Police Constable on 13.12.1981 and as Head Constable on 09.08.1986. But he was upgraded as Grade I Police Constable on 09.08.1988 and as Head Constable on 09.08.1993 and he retired from service on 31.07.2009. As he has not served as Head Constable for 10 years, he was denied upgradation as SSI by the Department.

6. As stated supra, as per G.O.Ms.No.15, he ought to have been upgraded as Head Constable in the year 1986 and therefore, he would have completed 10 years of service as Head Constable, when he retired on 31.07.2009 and hence, he is eligible to be considered for upgradation as SSI. Therefore, the order of the 3rd respondent is set aside and the 3rd respondent is directed to consider the claim of the petitioner in the light of the observations made above and also as per Government Orders referred to in G.O.Ms.Nos.844 and 15 and pass necessary orders within a period of twelve weeks from the date of receipt of a copy of this order. The authorities can also take into consideration the period of punishment, if any imposed against the petitioner while considering the upgradation."

4. The learned counsel appearing for the petitioner would point out that if time bound promotion is not given

that would affect the promotional aspects of the petitioner. Had there been a timely order giving timely promotion, the petitioner would have been eligible for the consideration of the next promotion and as claimed his entitlement for up-gradation has to be considered in the light of the orders passed in the said writ petition.

5. Therefore, having regard to the limited scope of the prayer, the respondents are directed to consider the claim of the representation of the petitioner, dated 28.11.2018 in the light of G.O.Ms.No.15 Home (Police V) Department dated 07.01.2010 and in the light of the Judgment, dated 17.06.2013 in WA (MD) No.1506/2011 of Madurai Bench of this Court and to pass appropriate orders within a period of eight weeks from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

srk

To

1. The Home Secretary, State of Tamil Nadu,
Fort St. George, Chennai - 9
2. The Director General of Police,
Kamaraj Salai, Mylapore, Chennai 600 004
3. The Deputy Inspector General of Police, Salem Range,
Salem
4. The Superintendent of Police,
Salem District, Salem

+1cc to Mr.S.Pushpakaran , Advocate SR.No. 85216

+1 CC TO GOVERNMENT PLEADER SR.NO. 86217

W.P.No.32657 of 2018

ASK(08/01/2019)

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