



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 22.01.2018
CORAM
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD) No.19401 of 2014

WEB COPY

S.Murugan

... Petitioner

Vs.

1. The Deputy Inspector of Police,
Madurai Range, Madurai.

2. The Superintendent of Police,
Madurai District, Madurai.

...Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings issued by the second respondent/ Superintendent of Police vide proceedings D.O.No.649 of 2014 C.No.A2/6939/85/2014 dated 06.03.2014 and quash the same and further direct the respondents herein forthwith to promote the petitioner as Head Constable with effect from 01.11.2012.

For Petitioner : Mr.Venkata Subramanian

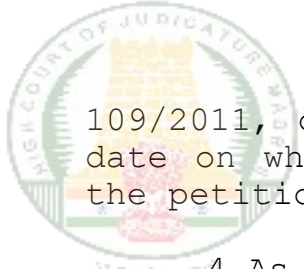
For Respondents : Mr.J.Gunaseelan Muthiah
Additional Government Pleader

ORDER

Heard the learned counsel on either side.

2.The petitioner challenges the impugned order dated 06.03.2014 and seeks a direction for promoting him as Head Constable with effect from 01.11.2012.

3.It is seen from the materials on record that the petitioner joined service as Grade-II Police Constable on 01.11.1997. He became a Grade-I Police Constable on 01.11.2007. His due date for promotion/ next upgradation for Head Constable was on 02.11.2012. But he was involved in misconduct. He was found in drunken mood and sleeping while on duty hours on 01.07.2011. He was therefore placed under suspension on 05.07.2011. Charge memo was issued vide proceedings of the Superintendent of Police, Madurai, dated 05.07.2011, under Rule 3(e)(1)(i) of the Tamil Nadu Subordinates Service (Discipline & Appeal) Rules 1955. Charge memo was issued on 02.01.2012. His suspension was revoked from 05.01.2012. After the finding that the charges framed against the petitioner stood proved, he was awarded a punishment of postponement of increment for a period of one year without cumulative effect by the Superintendent of Police, Madurai by F.Order No.F1/P.R.



109/2011, dated 14.12.2012. The first of October every year is the date on which the increment falls due. The next increment due to the petitioner fell on 01.10.2013.

4.As already pointed out the crucial date for the petitioner was 01.11.2012. But on that date, he could not be promoted as Head Constable because the disciplinary proceedings under Rule 3(1b) was pending. As per the circular memorandum dated 12.08.2005 issued by the Director General of Police, the petitioner's case for upgradation could have been considered only on 15.12.2013. But unfortunately for the petitioner the punishment came into force on 01.10.2013. Therefore even on 15.12.2013 the punishment was in currency. Therefore, on that date also he could not be considered. Only after the punishment period was also over, the petitioner became eligible for promotion. This was on 01.10.2014. Accordingly, he was promoted on 01.10.2014. The said circular also makes it clear that the upgradation shall be given after one year from such date or next date of completion of such punishment which ever is later. It is true that in the case of the petitioner, on account of the passing of the order on 14.12.2012, his promotion got postponed till 01.10.2014. This took place purely due to the circumstances set out above. The second respondent cannot be faulted for promoting the petitioner only with effect from 01.10.2014. There is no merit in the Writ Petition.

5.This Writ Petition stands dismissed. No costs.

Sd/-

Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar

To

1. The Deputy Inspector of Police,
Madurai Range, Madurai.
2. The Superintendent of Police,
Madurai District, Madurai.

+1CC to Mr.Venkata Subramanian, Advocate, SR.No. 43853
+1CC to the Special Government Pleader SR.No. 43991

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