



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.08.2018

CORAM:

WEB COPY

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P.(MD)No.17142 of 2018

M.Bhuvaneshwari
Junior Assistant,
Office of the Commissioner of Police,
Madurai City,
Madurai

... Petitioner

Vs

1) The Director General of Police,
Chennai.

2) The Commissioner of Police,
Madurai City,
Madurai.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the respondents to consider the representation given by the petitioner dated 14/06/2018 seeking grant of pay protection to grant Selection Grade in the post of Junior Assistant and for consideration of past service of the petitioner in the post Grade II Police constable along with the service of the petitioner in the post of Junior Assistant for the purpose of pensionary benefits .

For Petitioner : Mr.M.Gnanagurunathan
For Respondents : Mrs.S.Srimathy,
Special Government Pleader.

O R D E R

The prayer sought for in this Writ Petition is for a Mandamus directing the respondents to consider the representation given by the petitioner dated 14/06/2018 seeking grant of pay protection to grant Selection Grade in the post of Junior Assistant and for consideration of past service of the petitioner in the post Grade II Police constable along with the service of the petitioner in the post of Junior Assistant for the purpose of pensionary benefits .



2. Heard Mr.M.Gnanagurunathan, learned counsel appearing for the petitioner and Mrs.S.Srimathy, learned Special Government Pleader appearing for the respondents.

3. Learned counsel appearing for the petitioner would submit that, the petitioner was appointed as Grade II Police Constable on 15.02.2005. While she was in service on 29.05.2007, she had been in the bandobust duty in a temple festival, where, because of the commotion caused between two groups, there was stone throwing incident, that resulted in the petitioner being sustained with eye injury and she had taken treatment. Because of the injury, which is grievous in nature in the eye, though treatment was taken, the petitioner has lost her eye sight. Therefore, the petitioner has been given alternative employment as Junior Assistant.

4. Though the petitioner has been given alternative employment under the Persons with Disabilities (equal opportunity, protection of right and full participation) Act 1995 (now The Rights of Persons with Disabilities Act, 2016) under Section 47, promotion was not given to the petitioner. At the time of giving alternative employment to the petitioner, her basic pay was fixed in the post of Junior Assistant, without taking into consideration, the last drawn pay received in the post of Grade II Police Constable. Therefore, in this regard, the petitioner has given a representation dated 14.06.2018 to the respondents and the limited prayer of the petitioner is that, if the said representation is directed to be considered and order to that effect is directed to be passed, the petitioner would be satisfied.

5. I have heard Mrs.S.Srimathy, learned Special Government Pleader appearing for the respondents, who would submit that, the petitioner cannot claim as a matter of right a higher pay, as the petitioner was given alternative employment under the provisions of Persons with Disabilities (equal opportunity, protection of right and full participation) Act 1995 (now The Rights of Persons with Disabilities Act, 2016) and therefore, the said request of the petitioner would be considered only based on merits and the relevant rules, which was in vogue.

6. I have considered the said submissions made by both sides and by taking into account the limited prayer sought for by the petitioner, this Court is inclined to pass the following orders:-

"that the respondents are directed to consider the representation of the petitioner dated 14.06.2018 on merits and in accordance with law and pass orders thereon, within a period of of six weeks from the date of a copy of this order."



7. With the above direction, this Writ Petition is disposed of. However, there shall be no orders as to costs.

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Sd/-

Assistant Registrar (AD-I)

/True Copy/

Sub Assistant Registrar (CS-IV)

To

- 1) The Director General of Police,
Chennai.
- 2) The Commissioner of Police,
Madurai City,
Madurai.

+ 1 CC TO Mr.M.GNANAGURUNATHAN, ADVOCATE IN SR No. 76704
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 77007

STS

TE/SV/SAR-4 : 26/10/2018 : 3P/5C

Order made in
W.P. (MD) No. 17142 of 2018
02.08.2018