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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.03.2018

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.9652 of 2013

and

M.P. (MD) No.1 of 2014

K.Anbalakan

... Petitioner

Vs.

1.The Secretary to Government,
Home Department,
Government of Tamil Nadu,
Secretariat,
St.George Fort,
Chennai - 9.

2.The Director General of Police,
Dr.Radhakrishnan Salai,
Mylapore,
Chennai - 4.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to grant notional promotion to the petitioner as Deputy Superintendent of Police by including him in the 2007-2008 panel with all consequential retirement and pensionary benefits.

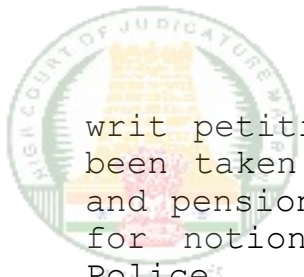
For Petitioner	: Mr.S.Anwar Sameem
For Respondents	: M/s.VPM.Vaishnavi, Government Advocate

O R D E R

The relief sought for in this writ petition is for a direction to direct the respondents to grant notional promotion to the writ petitioner to the post of Deputy Superintendent of Police by including him in the 2007-2008 panel and for consequential retirement and pensionary benefits.

2.The writ petitioner was terminated from service on account of the order of conviction. Subsequently, the matter went upto the Hon'ble Supreme Court of India and the writ petitioner was acquitted from the criminal charges. Thereafter, the writ petitioner was reinstated in service and allowed to retire from service on attaining the age of superannuation. However, the promotion to the post of Deputy Superintendent of Police, which was due to the writ petitioner had not been granted.

3.In this regard the learned counsel for the writ petitioner states that the second respondent has recommended the case of the



writ petitioner on 14.12.2010 and in spite of that no decision has been taken. Thus, the writ petitioner is deprived of his terminal and pensionary benefits on account of non consideration of his name for notional promotion to the post of Deputy Superintendent of Police.

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4.Promotion can never be claimed as a matter of right. However, consideration for promotion is a fundamental right. The claim of the writ petitioner is that he was totally exonerated from the criminal charges and allowed to retire from service. Therefore, his name ought to have been considered for grant of notional promotion with retrospective effect. However, the competent authorities are bound to consider his case in accordance with the Government Orders and the rules in force in respect of grant of promotion.

5.Thus, without going into the merits of the matter, the first respondent is directed to consider the representation submitted by the writ petitioner on 11.07.2010 and pass orders on merits and in accordance with law within a period of 12 weeks from the date of receipt of a copy of this order. The writ petitioner is directed to enclose the copy of the representation and all relevant Government Orders along with the order copy passed in this writ petition.

6.Accordingly, the writ petition stands disposed of. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

Sd/

Assistant Registrar(AS)

/True copy/

Sub Assistant Registrar

To

1.The Secretary to Government,
Home Department,
Government of Tamil Nadu,
Secretariat,
St.George Fort,
Chennai - 9.

2.The Director General of Police,
Dr.Radhakrishnan Salai,
Mylapore,
Chennai - 4.

+1cc to Mr.T.ANTONY ARUL RAJ, Advocate, SR.No.56766

+1cc to M/s.Special Government Pleader,SR.No. 56557

W.P. (MD) No.9652 of 2013

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