

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.07.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P.No.8112 of 2011
and M.P.No.1 of 2011

G.Thangaraj

.. Petitioner

Vs.

1.The Director General of Police,
Kamarajar Salai, Mylapore,
Chennai 600 004.

2.The Deputy Inspector General of Police,
Salem Range,
Salem.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the respondents 1 and 2 to promote the petitioner as Special Sub Inspector of Police, irrespective of the pendency of the F.I.R in Crime No.30/2008 dated 26.12.2008 on the file of the District Crime Branch, Salem.

For Petitioner : Mr.M.Johnkennady

For Respondents : Ms.R.Janaki,
Additional Government Pleader

सत्यमेव जयते
O R D E R

This Writ Petition is filed to issue a Writ of Mandamus, directing the respondents 1 and 2 to promote the petitioner as Special Sub Inspector of Police, irrespective of pendency of the F.I.R in Crime No.30/2008 dated 26.12.2008 on the file of the District Crime Branch, Salem.

2.Heard the learned counsel appearing for the petitioner as well the learned Additional Government Pleader appearing for the respondents and perused the materials available on record.

3.According to the petitioner, he joined as Police Constable in Tamil Nadu Police department on 15.01.1978 and was promoted

as Grade-I in the year 1988 and Head Constable on 04.01.1993. As per G.O.Ms.No.937 Home (Police III) Department dated 21.07.1998, modified by G.O.Ms.No.1015 Home (Police III) Department dated 04.07.2007, any Police Constable can be promoted as Special Sub-Inspector of Police after 25 years of service, out of which he should have served 10 years as Head Constable, provided he was not charged under Rule 3 (b) of the Tamil Nadu Police (Discipline and Appeal Rules) or criminal case. The petitioner worked as a Head Constable for 10 years from 1993 and the respondents ought to have promoted him as Special Sub-Inspector of Police even in the year 2003. In the year 2003, no FIR or departmental proceedings was pending against the petitioner. One M.Singaravelu gave a complaint that petitioner's daughter got appointment as Sub-Inspector of Police on the false information furnished by her that she is dependent on the petitioner. Based on the said complaint, FIR was registered against the petitioner and his daughter on 26.12.2008 in Crime No.30 of 2008. The Charge Sheet is filed and the same is pending in C.C.No.170 of 2012 on the file of the Judicial Magistrate-2, Mettur.

4.The learned counsel appearing for the petitioner further contended that as per Rule 10 of the Tamil Nadu Police Subordinate Service Rules read with Rule 39 (d) the Tamil Nadu State and Subordinate Rules and G.O.Ms.No.289 Personnel & Administrative Reforms dated 12.03.1989 and confidential letter dated 28.12.1989, the respondents should promote the petitioner as Special Sub-Inspector of Police. The learned counsel appearing for the petitioner in the typed set of papers has filed the orders dated 29.09.2010 made in W.P.No.22197 of 2010, 03.08.2010 made in W.P.(MD).No.8098 of 2010, 20.09.2010 made in W.P.No.12219 of 2010 and common order dated 22.12.2010 made in W.P.Nos.29067 to 29171 & 29172 of 2010. Based on the above averments and relying on the orders filed in the typed set of papers, prayed for the relief sought for in the Writ Petition.

5.The respondents filed counter affidavit and denied all the averments. The respondents have stated that the petitioner has not submitted any representation to the 1st respondent through proper channel with regard to his upgradation as Special Sub-Inspector of Police. The petitioner is not entitled to upgradation as Special Sub-Inspector of Police with reference to Rule 39 (d) the Tamil Nadu State and Subordinate Service Rules and all the Government Orders referred to above by the petitioner as the criminal case in DCB Cr.No.30 of 2008 is pending against the petitioner and prayed for dismissal of the Writ Petition.

6.From the orders relied on by the learned counsel appearing for the petitioner, it is seen that this Court, in similar cases, has directed the petitioners therein to give

representation to the 1st respondent and directed the 1st respondent to dispose of the representation on merits subject to the final outcome of the criminal case and disciplinary proceedings and pass orders in accordance with law. In view of the orders referred to above, relied on by the petitioner, the petitioner is directed to give fresh representation to the 1st respondent for upgradation as Special Sub-Inspector of Police under Rule 39 (d) the Tamil Nadu State and Subordinate Service Rules within a period of four weeks from the date of receipt of a copy of this order. On receipt of such representation, the 1st respondent is directed to consider the same in consonance with Rule 39 (d) the Tamil Nadu State and Subordinate Rules and pass appropriate orders on merits and in accordance with law.

7. With the above direction, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

gsa

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Director General of Police,
Kamarajar Salai, Mylapore,
Chennai 600 004.

2. The Deputy Inspector General of Police,
Salem Range,
Salem.

+1cc to the Govt. Pleader, Vide Sr.No.64246

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W.P.No.8112 of 2011

Kak (18/09/2019)

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