

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :12.02.2019

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THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.22027 of 2018
and W.M.P.No.25820 of 2018

T.Kumaresan

... Petitioner

Vs

1.The Director General of Police,
Police Head Quarters,
Chennai.

2.The Superintendent of Police,
Namakkal District.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the order passed by the 2nd respondent in Na.Ka.No.A1/4546/30/2017 dated 20.04.2017 and quash the same and consequently direct the 2nd respondent to place the petitioner in original seniority list of 1993 treating the suspension period 09.01.2008 to 01.09.2008 as duty for all purposes.

For Petitioner : Mr.M.T.Arunan

For Respondents : Mr.D.Suriya Narayanan
Additional Government Pleader
for R1 & R2

O R D E R

The relief sought for in the present writ petition is to direct the 2nd respondent to restore the original seniority of the writ petitioner by quashing the order of rejection passed by the 2nd respondent in proceedings dated 20.04.2017.

2. The learned counsel appearing for the petitioner was appointed as Grade II Police Constable on 25.10.1993 and upgraded as Grade I Police Constable, after completion of 15 years of service. On account of certain allegation, the

disciplinary proceeding was initiated against the writ petitioner under Tamil Nadu Police Subordinate Services (Discipline and Appeal Rules) charged under Rule 3 (e) (i) (ii) and after conducting the enquiry, the writ petitioner was imposed with the punishment of stoppage of increment. This apart, criminal case was registered against the writ petitioner in C.No.317 of 2007 under Sections 341, 323 IPC r/w.4 (1) (J) TNP Act. However, a criminal case ended in a order of acquittal by awarding a benefit of doubt.

3. The learned counsel appearing for the petitioner further states that against the order of acquittal, no appeal was filed by the State. Thus, the writ petitioner is entitled to get all benevolence.

4. The learned Additional Government Pleader appearing for the respondents states that earlier, the very same writ petitioner viz., Mr. T. Kumaresan, filed W.P.No.28744 of 2017 for a direction, directing the Superintendent of Police, Namakkal District to consider the representation of the writ petitioner dated 15.03.2014 and regularise the period of suspension spent by the writ petitioner as duty and consequently, settle all arrears of pay and allowance in accordance with law and the said writ petition was dismissed by this Court on 10.11.2017 on the ground that the period of suspension had already been regularised as EOL and therefore, no relief as such sought for in the writ petitioner can be granted and as far as the present writ petition is concerned, the grievance of the writ petitioner is that his batch mates were already promoted to the post of Superintendent of Police but he is serving only as Head Constable. However, the reason being that the writ petitioner was punished under the discipline and appeal Rules and he was actually promoted to the post of Head Constable only with effect from 22.08.2011 and his seniority is to be fixed from the date of promotion in the post of Head Constable.

5. This Court is of a considered opinion that the seniority in the feeder post is to be fixed with reference to the date of regularisation in the feeder category and not from the original date of appointment or with reference to the appointment in the earlier post. In view of the fact that the writ petitioner has suffered an order of punishment, he was actually promoted as Head Constable only with effect from 22.08.2011 and his seniority is to be reckoned from the date of his promotion as Head Constable on 22.08.2011 and all further promotions are to be considered only with reference to the date of promotion and as per the Rules in force.

6. Promotion can never be claimed as a matter of right and all promotions are to be made strictly in accordance with the Rules. The Competent authorities while undertaking the process

of promotion has to promote the panel strictly by following the procedures by considering all the eligible persons who are all aspiring to secure promotion in accordance with rules.

7. This being the principles to be followed, the relief sought by the writ petitioner in the present writ petition is devoid of merits and accordingly, the same stands dismissed. If at all the writ petitioner is having any other grievance, he is always at liberty to approach the competent authorities for redressal of the grievances. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1.The Director General of Police,
Police Head Quarters,
Chennai.

2.The Superintendent of Police,
Namakkal District.

+1 cc to Mr.M.T.Arunan, Advocate Sr.No.12766

W.P.No.22027 of 2018

PP(CO)
CSL/18.03.2019

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