

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.04.2019

C O R A M

THE HONOURABLE Mr.JUSTICE S.M.SUBRAMANIAM

Writ Petition No. 12611 of 2019

T.Nagarajan

... Petitioner

Vs.

1.The Secretary to Government  
Home (Police II) Department  
Fort St. George, Chennai - 9.

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

3.The Commissioner of Police  
Tiruppur City, Tiruppur.

... Respondents

PRAYER Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents to consider the claim of the petitioner for promotion as Assistant Commissioner of Police, Category-II by taking into consideration his educational qualification of pass in SSLC and promote him as Assistant Commissioner of Police by including his name in the C list of the year 2018-2019 and grant him all consequential service monetary benefits within a reasonable time.

For Petitioner : Mr.K.Venkata Ramani, Senior counsel  
For Mr.M.Muthappan

For Respondents : Mr.D.Suriya Narayanan [For R1 to R3]  
Additional Government Pleader

O R D E R

The relief sought for in the present writ petition is for a direction to direct the respondents to consider the claim of the writ petitioner for promotion to the post of Assistant Commissioner of Police, Category-II by taking into consideration his educational qualification of pass in SSLC and promote him as Assistant Commissioner of Police by including his name in the C list for the year 2018-2019 and grant him all consequential service monetary benefits within a reasonable time.

2.Promotion per se cannot be claimed as a matter of right. However, consideration for promotion is a fundamental right of an employee. All the employees, who all are eligible and fully qualified must to be considered for grant of promotion at the time of preparation of the panel of persons fit for promotion to the higher post in accordance with the Rules/Bylaws, which is in force. Thus, the competent authorities are bound to consider the names of all the eligible persons, while undertaking the process of promotion in accordance with the procedures as contemplated.

3.However, in the present case, the writ petitioner has submitted a representation and the present writ petition is filed to consider the representation. Even to issue such direction to consider the representation, the petitioner has to establish a legal right. In other words, it is a precondition that in the event of establishing a legal right then alone the writ petition can be entertained. Undoubtedly, the case of the writ petitioner is also to be considered whenever the process of promotion is undertaken by the competent authorities. In respect of educational qualification and other eligible criteria the competent authorities are bound to verify with reference to the rules and if the writ petitioner is otherwise eligible and qualified his name also to be considered along with the persons who all are aspiring to secure the promotion in accordance with rules.

4.This being the legal principles to be followed, the direction as such sought for to grant promotion cannot be granted and more specifically, the competent authorities must provide equal opportunity to all the employees, who all are otherwise eligible and qualified to secure promotion.

5.With these observations, this writ petition stands dismissed. There shall be no order as to costs.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1.The Secretary to Government  
Home (Police II) Department  
Fort St. George, Chennai - 9.

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

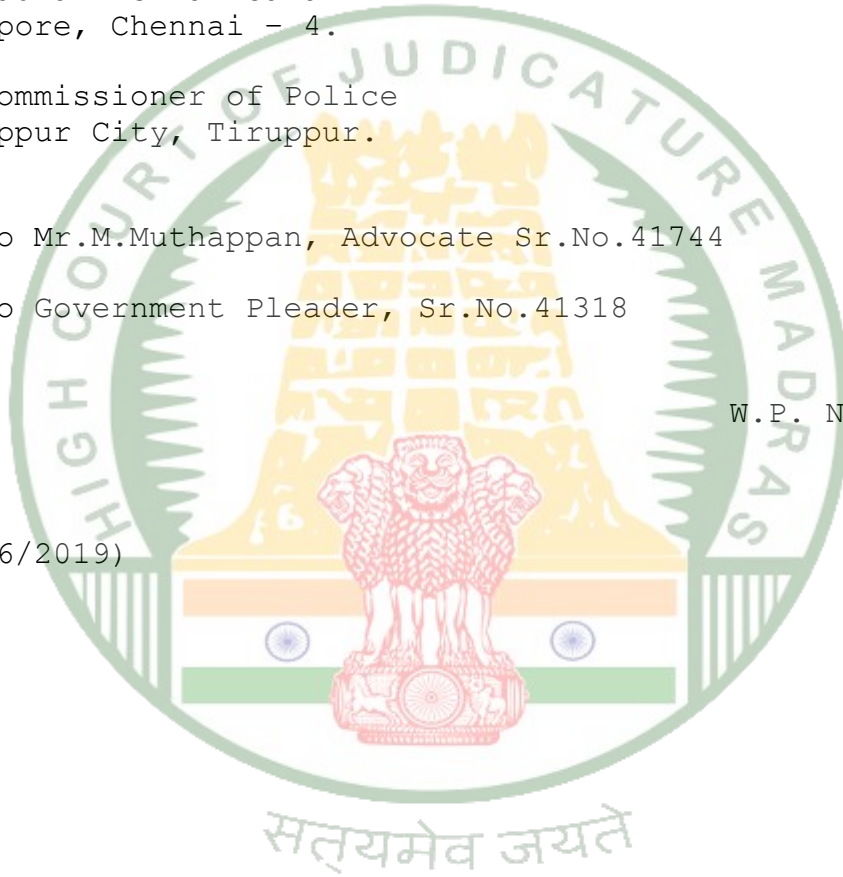
3.The Commissioner of Police  
Tiruppur City, Tiruppur.

+1 CC to Mr.M.Muthappan, Advocate Sr.No.41744

+1 CC to Government Pleader, Sr.No.41318

W.P. No. 12611 of 2019

VGI (CO)  
KP (03/06/2019)



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