

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.08.2019

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THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MS.JUSTICE P.T.ASHA

Writ Appeal No.1868 of 2019
and
C.M.P.Nos.12611 and 16976 of 2019

1. The Secretary to Government,
Home (Police-IV) Department,
Fort St.George, Chennai - 600 009.
2. The Director General of Police,
Dr.Radhakrishnan Salai,
Mylapore,
Chennai - 600 004. Appellants /Respondents

Vs

C.Thamizhchelvi Respondent/Petitioner

Prayer:Writ APPEAL filed under Clause 15 of the Letters Patent to set aside the order dated made in W.P.No.11876 of 2018 dated 26.11.2018

WP.No.11876 of 2018:Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents to consider the claim of the petitioner for inclusion of her name in the C list of Sub-Inspector of Police fit for promotion as Inspector of Police (Taluk) for the year 2017-18 in RC No.6758/444/ NGBV(1)/P/05/2018 dt.14.4.18 notwithstanding and without reference to the pending criminal case registered in Crime No.45/2017 of Palur Police Station and promote her as Inspector of Police (Taluk) and grant her all consequential service and monetary benefits at par with her junior

For Appellants : Mrs.A.Sri Jayanthi,
Special Government Pleader

For Respondent : Mr.K.Venkataramani,
Senior Counsel
for Mr.M.Muthappan

J U D G M E N T

(Judgment of the Court was delivered by K.K.SASIDHARAN, J.,)

The learned single Judge entertained the writ petition filed by the respondent and a mandamus was issued directing the appellants to consider her for promotion as Inspector of Police for the year 2017-18 without reference to the criminal proceedings pending against her in Crime No.45/2017 on the file of Palur Police Station. Feeling aggrieved by the said order, the State has come up with this intra court appeal.

2. We have heard the learned Special Government Pleader on behalf of the appellants. We have also heard the learned senior counsel for the respondent.

3. The factual matrix indicates that consequent to the involvement of the respondent in a case in Crime No.45/2017, she was placed under suspension by order dated 05.03.2017. Subsequently, a panel for promotion to the post of Inspector of Police was drawn, the crucial date being 01.06.2017. Since the respondent was placed under suspension and disciplinary proceedings were initiated against her on 29.05.2017, her name was not included in the said panel.

4. The charge memo issued to the respondent was closed by exonerating her from the charges by order dated 30.06.2017. The suspension was also revoked by order dated 14.06.2017. In view of the subsequent events, the respondent approached the appellants to include her name in the panel fit for promotion to the post of Inspector of Police for the year 2017-18. Since there was no positive action at the instance of the appellants, the respondent filed a writ petition in W.P.No.11876/2018.

5. The learned single judge agreed with the contention taken by the respondent to the effect that there was no proceedings pending against her and as such her name ought to have been included in the C-list of Sub-Inspectors of Police fit for promotion to the post of Inspectors of Police for the year 2017-18. The learned single Judge was of the view that pendency of the criminal case is not relevant for deciding the issue raised by the respondent for promotion. The learned single Judge therefore, directed the appellants to consider the case of the respondent for promotion by including her name in the C-list for Sub-Inspectors of Police fit for promotion to the post of Inspectors of Police without reference to the pending criminal case initiated by the police in Crime No.45/2017.

6. The core issue is as to whether the subsequent revocation of suspension and dropping the charges would give right to the respondent to claim promotion.

7. The appellants are yet to consider the claim made by the respondent for promotion. It is for the appellants to take a decision as to whether on account of the subsequent revocation of suspension or exonerating her from the disciplinary proceedings, she is eligible for inclusion of her name in the C-list of Sub-Inspectors of Police fit for promotion to the post of Inspectors of Police for the year 2017-18. It is in essence an exercise to be conducted by the appellants.

8. There is one more aspect which has got relevance for deciding the issue raised in the appeal. The learned single Judge directed the appellants to consider the case of the respondent for promotion without reference to the pending criminal case. We are of the view that the learned single Judge was not correct in directing the appellants to consider the case of the respondent without reference to the case in Crime No.45/2017. Here again, it is for the appellants to take a decision as to whether, notwithstanding the pendency of the criminal case, the respondent is eligible to be included in the panel for promotion for the year 2017-18, taking into account, the seniority in the C-list of Sub Inspectors of Police.

9. We are informed that the panel has already been drawn and promotion to the Sub-Inspectors of Police were also given. In view of the background facts, we direct the appellants to take a decision on merits and as per law in the matter for inclusion of the name of the respondent in the panel for promotion for the year 2017-18 as expeditiously as possible and in any case, within a period of two months from the date of receipt of a copy of this judgment.

10. The intra court appeal is allowed as indicated above. No costs. Consequently, connected miscellaneous petitions are closed.

-s/d-

Assistant Registrar(InspCell)

True Copy

Sub-Assistant Registrar

vsi

To

1. The Secretary to Government,
Home (Police-IV) Department,
Fort St.George, Chennai - 600 009.
2. The Director General of Police,
Dr.Radhakrishnan Salai,
Mylapore,
Chennai - 600 004.

+1 cc to M/s.M.Muthappan Advocate sr75898
+1 cc to the Government Pleader sr75577

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mr(co)
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