

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.11.2019

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.33576 of 2019

V.S.Ebenezer

... Petitioner

Vs.

1.The State of Tamil Nadu,  
Rep.by its Secretary to Government,  
Home (Police III) Department,  
Fort St.George,  
Chennai-9

2.The Director General of Police,  
Office of DGP,  
Dr.Radhakrishnan Slai,  
Mylapore,  
Chennai-4

...Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to consider the petitioner's representation dated 26.09.2019 with regard to granting pay protection by paying the differential loss amount as a personal pay and grant consequential allowances and benefits and make up the monetary loss by relaxing the rules as a special case.

For Petitioner : Mr.S.Kasikumar

For Respondents : Ms.M.Lalitha, Govt.Advocate

ORDER

This writ petition has been filed by the petitioner, directing the respondents to consider the petitioner's representation dated 26.09.2019 with regard to granting pay protection by paying the differential loss amount as a personal pay and grant consequential allowances and benefits and make up the monetary loss by relaxing the rules as a special case.

2.The case of the petitioner is that the petitioner was appointed as Constable in the Tamilnadu Police Department in the year 1997. Subsequently he was promoted as Head Constable in the year 2007. The State Government issued a G.O.Ms.No.1317 Home (Police-IX) Department, dated 08.09.1997

for recruitment of 1000 Sub Inspectors of Police. Thereafter, the Board issued a Notification dated 02.04.1998 calling for applications from Men and Women who satisfy the eligibility norms. As far as the in-service candidates were concerned, it was specifically announced in that Notification that, for the Graduate Police Constables and Head Constables serving in the Police Department, the norms and the application format would be intimated separately through the Department. The petitioner participated in the recruitment through his Department and he came out as successful candidate. But in view of the fixation of Zone wise cut off mark he was not selected for appointment. The unselected candidates approached the Administrative Tribunal and tribunal directed to appoint them as Sub-Inspector of Police. As against that order the department filed writ petition and same also ordered in favour of the petitioner and thereafter SLP was filed and the same was also dismissed. But the respondent not issued appointment order, so the petitioner filed writ petition for direction to the respondents to give appointment orders as per the orders of the Tribunal as well as the Supreme Court. Now the petitioner is issued with appointment with effect from the order, but the pay protection is not given to the petitioner. In view of that the petitioner comes under lower pay scale and losses Rs.6,000/- from his last drawn pay. Hence he sent a representation to the respondent to issue pay protection. Which is still pending. Hence, the petitioner is before this Court.

3.The learned counsel appearing for the petitioner would submit that the petitioner was successful in the direct recruitment for post of Sub Inspectors in the year 1998 due to litigation the petitioner was not appointed in the same year and the appointment order was issued only in the year 2017. If they would have appointed in the year 1998 itself, the pay protection will be given. Hence due to the Administrative reasons was given promotion at relevant point of time. Hence, in order to remove the pay anomaly between the petitioner and other similar situated persons. He would further submit that the similar issue was dealt by this Court and the Division Bench of this Court by its order dated 02.08.2017 allowed the writ petition in W.A.No.322 of 2017. The petitioner made representation. Till date, the representation was not considered. Hence, this Court may issue direction to direct the respondents to consider the representation within a reasonable time fixed by this Court.

4.Per contra, the learned Government Advocate appearing for the respondents would submit that the similar type of representation was rejected by the first respondent on 25.04.2017 and the same was communicated to the Director General of Police. However, there is no legal impediment to dispose of the representations within a reasonable time as fixed by this Court.

5.Considering the facts and circumstances, considering the limited request made by the learned counsel appearing for the petitioner, without expressing any opinion and without going into the merits of the case, I am inclined to issue direction to direct the respondents to consider the representation of the petitioner dated 26.09.2019 and pass orders on merits and in accordance with law within a period of six weeks from the date of receipt of a copy of this order.

6.Accordingly, the Writ Petition is disposed of. No costs.

Sd/-  
Assistant Registrar

//True copy//

Sub Assistant Registrar

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To.

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

2.The Director General of Police,  
Office of DGP,  
Dr.Radhakrishnan Slai,  
Mylapore,  
Chennai-4

+1cc to Mr.K.Jenitha, Advocate SR.No.100153

+1cc to Government Pleader SR.No.100751

W.P.No.33576 of 2019

AK(CO)  
GMY(30/01/2020)

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