



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD)No.8668 of 2009

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S.Sundara Mahalingam

... Petitioner

-Vs-

The Director General of Police,
Santhome, Chennai.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the memorandum of the respondent in R.C.No.146779/GBII (i)/2008, dated 30.12.2008 and quash the same as illegal and consequently to direct the respondent to consider the petitioner for promotion to the post of Deputy Superintendent of Police, w.e.f., the date on which the petitioner Juniors were promoted along with monetary benefits within a period that may be stipulated by this Court.

For Petitioner	: Mr.H.Mohammed Imran,
	For M/s.Ajmal Associates.
For Respondent	: Mr.D.Muruganantham,
	Additional Government Pleader.

ORDER

The order of rejection dated 30.12.2008, rejecting the claim of the writ petitioner for promotion to the post of Deputy Superintendent of Police by including his name in the panel of the year 2004-05, is under challenge in the present Writ Petition.

2.The learned counsel appearing on behalf of the writ petitioner made a submission that during the relevant point of time, when the panel for the year 2004-05 was under preparation, there was no impediment for the writ petitioner for grant of promotion. However, the name of the writ petitioner was erroneously passed over by the respondent and his juniors were promoted in the panel of the year 2004-05. Thus, the writ petitioner is constrained to move the present Writ Petition.

3.However, subsequently, the writ petitioner was promoted to the post of Deputy Superintendent of Police and retired from service compulsorily by way of punishment. This apart, many number of departmental disciplinary proceedings were initiated against the writ petitioner and paragraph No.2 of the impugned order narrates the details of the departmental disciplinary proceedings initiated against the writ petitioner, which is extracted hereunder:-



"2. In this connection the above Inspector of Police is informed that he has earned the following punishments during the check period of 01.06.1999 to 31.05.2004.

- i. PR 119/99 dt: 04.07.2000 removed from service. This punishment was set aside on 03.01.2003.
- ii. PR 199/05 dt: 16.07.2005 postponement of increment for one year without cumulative effect.
- iii. PR No.139/04 dt: 11.05.2005 postponement of increment for two years without cumulative effect.
- iv. PR 22/05 dt: 16.07.2005 Censure.
- v. PR 13/06 dt: 14.04.2006 postponement of increment for one year cumulative effect."

4. The learned Additional Government Pleader appearing on behalf of the respondent by referring the departmental disciplinary proceedings initiated against the writ petitioner made a submission that the writ petitioner was not found fit for promotion to the post of Deputy Superintendent of Police during the year 2004-05. This apart, the writ petitioner was suffering from punishment continuously and departmental disciplinary proceedings were pending against him during the relevant point of time. Thus, he was relieved from service finally based on the punishment of compulsory retirement. This being the conduct of the writ petitioner, the writ petitioner is not entitled for any relief of retrospective promotion as such sought for in the present Writ Petition.

5. The learned counsel appearing on behalf of the writ petitioner urged this Court by stating that the panel of the year 2004-05 was prepared based on the crucial date i.e., 01.04.2003. As on that date, there was no impediment for the writ petitioner for getting promotion. In this regard, it is contended that the check period during the relevant point of time, was from 01.06.1999 to 31.05.2004. The crucial date for consideration was on 01.04.2003. However, during the check period, the writ petitioner earned punishments, which is stated above with reference to paragraph No.2 of the impugned order. When the writ petitioner was suffering from currency of punishment during the check period, his name was passed over.

6. Considering the facts and circumstances of this case and the fact that the writ petitioner was compulsorily retired by way of punishment during the year 2010, retrospective promotion to the post of Deputy Superintendent of Police at this length of time deserves no merit consideration. Accordingly, this Court do not find any infirmity in respect of the reasonings furnished in the impugned



order.

7. With these observations, this Writ Petition stands dismissed. No costs.

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Sd/-

Assistant Registrar (AD II)

// True Copy //

Sub Assistant Registrar (CS)

To
The Director General of Police,
Santhom, Chennai.

+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-80650[F] dated 08/08/2019)

+1 CC to M/s.SPL GP (SR-80668[F] dated 08/08/2019

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