



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.11.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.S. SUNDAR

W.P.MD).No.11561 of 2010

S. Dhanaraj

.. Petitioner

Vs.

The Superintendent of Police,
Theni District.

.. Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the order passed by the respondent in D.O.607/2007/C.No. A2/7979/2004 dated 27.04.2007 and quash the same and further direct the respondent to issue orders of upgradation of petitioner as Head Constable and subsequent upgradation as Special Sub- Inspector of Police with effect from the dates on which his immediate junior at Sl.No. 65 in panel dated 12.10.2000 got upgradation as Head constable and subsequent upgradation as Special Sub- Inspector of Police and grant all consequential service and monetary benefits.

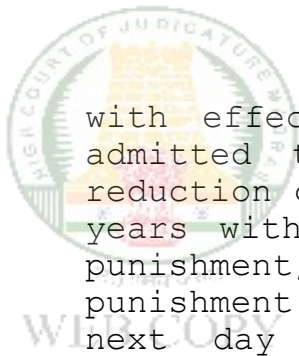
For Petitioner : Mr.A.Thirumurthy

For Respondent : Mr.R.Muruganandam
Additional Government Pleader

ORDER

This writ petition is filed to issue a Writ of Certiorarified Mandamus, to quash the impugned order passed by the respondent, dated 27.04.2007 and to direct the respondent to issue orders of upgradation of petitioner as Head Constable and subsequent upgradation as Special Sub Inspector of Police with effect from the dates on which his immediate junior got upgradation.

2. By the impugned order, the petitioner was upgraded as Head Constable with effect from 26.07.2002. In the impugned order, it is stated that the petitioner was originally upgraded as Head Constable



with effect from 28.10.2004 by order, dated 24.12.2004. It is admitted that a punishment was imposed on the petitioner for reduction of time scale of pay by three stages for a period of three years with cumulative effect. It is on account of the order of punishment, dated 22.07.1999, even according to the petitioner, the punishment was in currency till 26.07.2002. However, on the very next day of completion of punishment period, as awarded in P.R.02/99, by the impugned order, the petitioner's upgradation as Head Constable was revised to be taken with effect from 26.07.2002. In effect, the petitioner though originally was upgraded as Head Constable with effect from 2004, by the impugned order his upgradation was with effect from 26.07.2002. This order was challenged by the petitioner mainly on the ground that failure to include the petitioner's name in the panel in 2000 as directed in the order passed by this Court in W.P.No.361 of 2004, dated 17.01.2006 is illegal. It is further stated that the respondent has failed to follow the guidelines and instructions issued by G.O.(Ms.) No.368, Personnel and Administrative (S) Department, dated 18.09.1993. Though the learned counsel appearing for the petitioner submitted that failure to include the petitioner's name in the panel before 2002 is contrary to the order passed by this Court in W.P.No.361 of 2004, this point was not raised in the Writ Petition. However, the learned counsel for the petitioner relied upon a judgment of the learned Single Judge of this Court by order, dated 17.01.2006 passed in W.P.No.361 of 2004. In the judgment relied upon by the petitioner's counsel, it is stated that an officer who has been undergoing punishment, though he is not entitled for inclusion of his name in the panel for the first time, if the panel is prepared by the authority for the second time and at that time also the punishment period continues, he is entitled to be included in the panel. This Court is unable to see any force in the arguments of the learned counsel for the petitioner. This is not a case where, it is pointed out that the petitioner's upgradation was delayed for the second time. As a matter of fact, the punishment was imposed on 22.07.1999 and on completion of third year, the petitioner was upgraded to the post of Head Constable. Hence, the judgment relied upon by the petitioner has no application to the facts of the present case. As per Section 7 (1) of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016, the position prior to G.O.(Ms.)No.368, P & AR (S) Department, dated 18.10.1993 and after the G.O. is that any punishment imposed on a member of service under Rule 8 of the Tamil Nadu Civil Services (Discipline and Appeal) Rules shall take effect from the date on which the said punishment order is served to the member of service concerned and the name of such member of service shall not be considered for inclusion in the approved list until the said punishment is over. Therefore, this Court is unable to find any merit in this writ petition.



3. Accordingly, the Writ Petition is devoid of merits and hence, dismissed. No costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS)

Ls

To

The Superintendent of Police,
Theni District.

+1 CC to M/s.A.THIRUMURTHY, Advocate (SR-98594[F] dated
15/11/2019)

+1 CC to M/s.GP (SR-99044[F] dated 18/11/2019)

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