



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.12.2019

CORAM :

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P(MD)No.12022 of 2011
and
M.P(MD)Nos.1 and 2 of 2011

J.Jayaraj

... Petitioner

vs.

1)The Deputy Inspector General of Police,
Thanjavur Range, Thanjavur.

2)The Superintendent of Police,
District Police Office,
Thanjavur District
@ Thanjavur.

... Respondents

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the order passed by the 2nd respondent herein in his D.O.1611/2011, Rc.No.A1/6281/2011 dated 29.09.2011 ordering cancellation of upgradation as Special Sub Inspector of Police and quash the same and consequently direct the respondents herein to promote the petitioner as Special Sub Inspector of Police with effect from 01.04.2011 with all consequential service and monetary benefits.

For Petitioner : Ms.Sudha Ravi
For Respondents : Mr.S.Dhayanalan, Government Advocate

ORDER

Challenging the order dated 29.09.2011 passed by the 2nd respondent ordering cancellation of upgradation as Special Sub Inspector of Police, the petitioner has filed this writ petition with a consequential prayer to promote him as Special Sub Inspector of Police with effect from 01.04.2011 with all consequential service and monetary benefits.

2.Learned counsel for the petitioner would submit that the petitioner joined the police service as Grade II Police Constable on 01.04.1986 and he was promoted as Grade-I Police Constable on



22.07.1997 and later his seniority in the post of Grade-I Police Constable was restored with effect from 01.04.1996. While so, for the charge of absence without permission, the petitioner was awarded with punishment of reduction in time scale of pay by two stages for two years without cumulative effect in P.R.No.19/97 dated 25.02.1999 which was given effect to from 01.03.1999 to 28.02.2001. Thereafter, the petitioner was given upgradation as Head Constable from 01.04.2002. It is further submitted that while his juniors who were appointed in 1986, were granted upgradation as Head Constable on 01.04.2001, he was given upgradation as Head Constable only from 01.04.2002. According to the petitioner, from 01.03.2001, there was no currency of punishment in P.R.No.19/96 and as per G.O.Ms.No.15, Home (Pol.V) Department, dated 07.01.2010, on completion of 10 years of service in the post of Grade-II P.C, a person shall be upgraded as Grade-I P.C and on completion of 5 years in the post of Grade-I P.C, a person shall be upgraded as Head Constable and on completion of 10 years in the post of Head Constable, a person shall be upgraded as Special Sub Inspector of Police.

3.Learned counsel for the petitioner would further submit that again, in P.R.No.09/2009 dated 14.07.2009, the petitioner was imposed with another punishment of postponement of increment for two years with cumulative effect by the Superintendent of Police, Thanjavur District, which was modified to that of punishment of black mark on 21.03.2011 by the Director General of Police on the mercy petition filed by the petitioner. In view of the modification of punishment, the petitioner was given revised upgradation as Head Constable with effect from 01.04.2001 on par with his batch-mates. Thereafter, on 11.18.2011, the petitioner was further promoted as Special Sub Inspector of Police with effect from 01.04.2011. While so, the present impugned order dated 29.09.2011 has been passed by the 2nd respondent cancelling the upgradation of the petitioner as Special Sub Inspector of Police on the ground that his upgradation as Head Constable was revised as 01.04.2002 instead of 01.04.2001. The petitioner is challenging the said order stating that order of cancellation of upgradation was passed without any notice to him thereby the principles of natural justice is violated.

4.The respondents filed counter and the learned Government Advocate appearing for the respondents would state that by wrongly understanding that both the punishments awarded to the petitioner were modified to that of black mark, the petitioner was inadvertently given revised upgradation as Head Constable with effect from 01.04.2001 and therefore, there is no need to issue any show cause notice to him before passing the impugned cancellation of upgradation as Special Sub Inspector of Police.



5.Heard both sides.

6.The respondents themselves admit in their counter that no notice has been given to the petitioner before passing the impugned order and therefore, in my considered opinion, the impugned order is passed in violation of the principles of natural justice and therefore, I am inclined to interfere with the impugned order. It is also stated by the learned counsel for the petitioner that in view of the interim stay granted by this Court on 20.10.2011, the petitioner is still continuing in the post of Special Sub Inspector of Police.

7.Accordingly, the impugned order passed by the 2nd respondent dated 29.09.2011, is quashed and the writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar(CS)

bala

To

1)The Deputy Inspector General of Police,
Thanjavur Range, Thanjavur.

2)The Superintendent of Police,
District Police Office,
Thanjavur District
@ Thanjavur.

+1 CC to MR.SPL GP (SR-103279[F] dated 04/12/2019)

+1 CC to MR.RAVISHANMUGAM, Advocate (SR-103377[F] dated
04/12/2019)

W.P (MD)No.12022 of 2011
03.12.2019

_KM/(18.12.2019) 3P 5C