



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD)No.19592 of 2013

P.Arunachalam

... Petitioner

-Vs-

1.The State of Tamil Nadu,
Represented by its Secretary to Government,
Home Department, Fort St. George,
Chennai-600 009.

2.The Director General of Police,
Kamarajar Salai, Mylapore,
Chennai-600 004.

3.The Superintendent of Police,
Tirunelveli District, Tirunelveli.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents to promote the petitioner as Special Sub Inspector of Police by advancing the upgradation as Grade I Police Constable / Head Constable on completion of 10/ 5years and upgrade as Special Sub Inspector of Police on completion of 25 years of service in the light of Government Orders and order made in W.P.No.11544 to 11550 of 2012 dated 28.06.2012 which were extended to the petitioner's juniors within the time limit stipulated by this Court.

For Petitioner : Mr.G.Thalaimutharasu

For Respondents : Mr.M.Jeyakumar,
Additional Government Pleader.

ORDER

The writ petitioner was enlisted as Grade-II Police Constable on 17.07.1982 and promoted as Grade-I Police Constable in the year 1996 and upgraded to the post of Head Constable in the year 2010. The writ petitioner was dismissed from service on 28.05.1998 for unauthorized absence for 21 days and thereafter, he filed O.A.No.6386/1999 and subsequently, reinstated into service in the year 2006. On reinstatement, the writ petitioner was posted as Head Constable.



2.The grievance of the writ petitioner is that the Government issued G.O.Ms.No.210, P & A.R Department, dated 11.03.1987, pursuant to the recommendation of the One Man Committee for grant of promotion in respect of the persons, who are all eligible on completion of 10 years of service in the higher post. The writ petitioner was not granted the benefit of upgradation to the higher post and therefore, he is constrained to move the present Writ Petition.

3.The very relief sought for in the present Writ Petition is to direct the respondents to promote the writ petitioner as Special Sub-Inspector of Police by advancing the upgradation as Grade-I Police Constable / Head Constable on completion of 10 / 5 years and upgradation of Special Sub-Inspector of Police on completion of 25 years of service in the light of the Government Orders.

4.The learned Additional Government Pleader appearing on behalf of the respondents states that the writ petitioner was upgraded as Grade-I Police Constable with effect from 28.10.1995 and he was further upgraded to the post of Head Constable. In view of the fact that he was dismissed from service from the year 1998 onwards and he was reinstated into service, pursuant to the order passed by the Tamil Nadu Administrative Tribunal during the year 2006, the benefit of upgradation was not granted as he was not in service in between the year 1998 to 2006. The said factual position was narrated in Paragraph No.9 of the counter affidavit filed on behalf of the respondents, which are extracted hereunder:-

"9.(a)With regards to averments made in ground (a), it is submitted that the action of the petitioner is legal and not arbitrary and there is no violation of Article 14 and 21 of the Constitution of India. Hence, it is submitted that the contention of the petitioner is not acceptable.

(b)With regards to averments made in ground(b), it is submitted that the petitioner was rightly upgraded as Gr I Naik with effect from 28.10.1995 Vide G.O.Ms.No.1681, Home (Pol 5) Department dated 12.10.1992 and upgraded as Head Constable on 07.01.2010 due to earning of punishment in PR 47/97 and 74/98. Hence, it is submitted that the plea of the petitioner that he ought to have been upgraded as Gr I Naik w.e.f, 01.04.1991 before the introduction of upgradation in the Police Department and Head Constable on 12.09.1995 before the issuance of G.O.Ms.No.844 Home Department dated 03.06.1997 and Special Sub-Inspector of Police during the year 2007 concealing the material fact of his dismissal in PR 74/2008 on 28.05.1998 and out of employment period of 8 years and above is neither reasonable or fair.

(c)With regards to the averments made in ground (C),



it is submitted that the petitioner is not entitled for claiming advancement of upgradation mentioning G.O.Ms.No.13 Home (Pol 5) Department, dated 06.01.2010 due to obvious reasons that he was not in service during the year 2000. Further it is submitted that Government issued G.O.Ms.No.15 Home (Pol 5) Department, dated 07.01.2010 delegating powers to the Superintendent of Police, Deputy Inspector General of Police with a view to avoid delay in giving upgradation to the police personnel and not opened any new avenue in giving promotion. The petitioner mentioned the above Government orders without knowing the rudiments of the Government order issued in connection with upgradation of police personnel. Hence, it is submitted that the contention of the petitioner is incorrect."

5.In view of the fact that the writ petitioner was dismissed from service during long back and he was reinstated into service after lapse of 8 years, the benefit of upgradation was not granted to him and therefore, there is no infirmity as such.

6.Accordingly, this Writ Petition stands dismissed. No costs.

Sd/-

Assistant Registrar (Writs)

// True Copy //

Sub Assistant Registrar(CS)

To

1.The Secretary to Government,
State of Tamil Nadu,
Home Department, Fort St. George,
Chennai-600 009.

2.The Director General of Police,
Kamarajar Salai, Mylapore,
Chennai-600 004.

3.The Superintendent of Police,
Tirunelveli District, Tirunelveli.

+2cc to Mr.G.Thalaimutharasu,Advocate, SR.No. 79678

W.P. (MD)No.19592 of 2013
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Myr

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