



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

WEB COPY

W.P. (MD)No.2217 of 2013

R.Karmegam

... Petitioner

-Vs-

1.The Director General of Police,
State of Tamil Nadu, Chennai-6.

2. The Superintendent of Police,
Ramanathapuram District,
Ramanathapuram.

3.Varadharajan

... Respondents

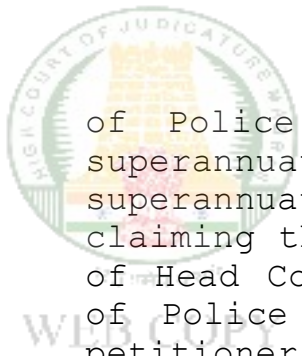
PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records from the first respondent in his proceedings in Rc.278527/NGB IV(1) 2010 dated 01.10.2012 and quash the same and consequently, promote the petitioner as Inspector of Police by awarding all back wages and monetary benefits.

For Petitioner	: Mr.N.Sathish Babu
For R1 and R2	: Mr.K.Mu.Muthu, Additional Government Pleader.
For R3	: Mr.S.C.Herold Singh

ORDER

The present Writ Petition is filed by a retired Sub-Inspector of Police. The Writ Petition itself is filed after attaining the age of superannuation by the writ petitioner, seeking retrospective promotion on par with his junior.

2.The writ petitioner joined as Grade-II Police Constable and promoted to the post of Head Constable on 09.03.1988. The writ petitioner attended before the Range Promotion Board comprising of written test, parade and viva-voice, which was held in the year 1998 for further promotion to the post of Sub-Inspector of Police at Ramanathapuram Range. The writ petitioner was promoted to Sub-Inspector of Police only on 07.03.2001 and the writ petitioner completed his service in the post of Sub-Inspector



of Police and retired from service on attaining the age of superannuation on 31.10.2012. After attaining the age of superannuation, the writ petitioner now filed this Writ Petition, claiming that his name ought to have been included in the 'C' list of Head Constable fit for promotion to the post of Sub-Inspector of Police in the year 1988 itself. In other words, the writ petitioner claims that he should be promoted to the post of Sub-Inspector of Police with effect from the year 1988 on par with his junior and thereafter, to the post of Inspector of Police.

3.First of all, the cause of action for the writ petitioner arose during the year 1998, when he attended before the Range Promotion Board for promotion to the post of Sub-Inspector of Police in the year 1998. He was promoted to the post of Sub-Inspector of Police in the year 2001 and he retired from service in the year 2012. Thus, the writ petitioner ought to have adjudicated the issues during the relevant point of time, when he participated in the Range Promotion Board in the year 1998. Contrarily, the writ petitioner participated in the year 1998 and got promotion in the year 2001 and after retirement in the year 2012, he filed the present Writ Petition in the year 2013. Thus, the writ petitioner had not approached this Court at that time when the cause of action arose. Contrarily, he waited till his retirement and after attaining the age of superannuation, the writ petitioner has chosen to approach this Court, seeking retrospective promotion on par with his junior.

4.The learned Additional Government Pleader appearing on behalf of the respondents 1 and 2 with reference to the claim of the writ petitioner relied on the counter affidavit of the second respondent, which reads as follows:-

"It is submitted that the Writ Petitioner was enlisted as a Gr.II PC on 09.07.1975. He was promoted as Head Constable on 09.03.1988 and was reverted back on 5.05.1989 due to the reversion of Ty.S.Is in view of recruitment and entry of direct Sub-Inspector of the 1987 batch. Again, he was promoted as Head Constable on 01.12.1991. The Writ Petitioner attended Range Promotion Board comprising of written test, Parade and Viva-voce in the year 1998 for the drawal of 'C' list of HCs. Fit for promotion as Sub-Inspector of Police for the year 1998. Even though he succeeded in the written test, further appeared in Drill and Viva Voce Test, his name was not included in the 'C' list of H.Cs. Fit for promotion as SIs for the year 1998, as only the names of 52 HCs were included in the above 'C' list based on the existing vacancies. The above names were selected based on their merits and subsequently arranged in seniority. Subsequently, he attended the



Range Promotion Board for HCs. Fit for promotion as SIs for the year 1999 and was included in the 'C' list of HCs. Fit for promotion as SIs for the year 1999 and was promoted as Sub-Inspector of Police, w.e.f., 07.03.2001."

5.The impugned order of rejection also states that the writ petitioner attended the Range Promotion Board for Head Constable fit for promotion to the post of Sub-Inspector of Police for the year 1999 at Ramnad Range and as per Special Rule 3 of Tamil Nadu Police Subordinate Service Rules, the seniority of Head Constable fit for promotion to the post of Sub-Inspector of Police is fixed within the range. Therefore, as per the existing rule provision, one Range Personnel cannot compare with another Range Personnel on seniority upto Sub-Inspector of Police.

6.This Court is of the considered opinion that the date of the impugned order alone should not be taken into account for the purpose of entertaining the Writ Petition, in view of the fact that many number of representations are filed by various employees. Whenever, such representations are filed, the authorities are also sending reply. Therefore, such a reply submitted on several occasions, after a lapse of many years, cannot be taken as a cause of action arose at the first instance. In other words, for the purpose of calculating the period of limitation, such rejection order alone should not be taken, in view of the fact that such rejection orders are passed on several occasions in number of cases.

7.In the present case, though the rejection order was passed in the year 2012, the cause of action for promotion to the writ petitioner arose as per his claim during the year 1988-99. The writ petitioner was promoted as Sub-Inspector of Police in the year 2001 and served till the year 2012 and after retirement he filed the present Writ Petition, seeking retrospective promotion with effect from the year 1988 on par with his juniors. Thus, the writ petitioner was not vigilant in pursuing his remedy and allowed the cause to lapse and filed the present Writ Petition only for the purpose of getting more monetary benefits one way or another. Such an attitude of the retired public servant can never be encouraged. Such Writ Petitions are filed with fond hope that they may be get some more monetary benefits one way or another.

8.Thus, this Court is of the considered opinion that the cause of actions in respect of the promotions are to be adjudicated vigilantly and within a reasonable period of time and also such relief after lapse of many years, seeking retrospective promotion cannot be granted nor be adjudicated.



9.This being the principles to be followed, even on merits, the writ petitioner has not established that he is entitled for retrospective promotion. Accordingly, this Writ Petition is devoid of merits and the same stands dismissed. No costs.

WEB COPY

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

To

1.The Director General of Police,
State of Tamil Nadu, Chennai-6.

2. The Superintendent of Police,
Ramanathapuram District,
Ramanathapuram.

+1 CC to M/s.S.C.HEROLD SINGH, Advocate (SR-80119[F] dated
06/08/2019)

+1 CC to M/s.N.SATHISH BABU, Advocate (SR-80141[F] dated
07/08/2019)

+1 CC to SPECIAL GOVERNMENT PLEADER (SR-80310[F] dated
07/08/2019)

W.P. (MD)No.2217 of 2013
06.08.2019

Myr

AE/(19.08.2019) 4P 6C