



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.14964 of 2014
and
M.P. (MD) No.1 of 2014

S.Thennarasu

... Petitioner

-Vs-

1.The Director General of Police,
Office of the Director General of Police,
Chennai-4.

2.The Inspector General of Police (South Zone),
Office of the Inspector General of Police,
Madurai.

3.The Commissioner of Police,
Madurai City, Madurai District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order of deferment of promotion in C.No.A1/30064/2013 dated 18.08.2014 on the file of the respondent No.3 and quash the same as illegal and consequently to direct the respondent No.3 to relieve the petitioner as Temporary Inspector of Police as per the order in CPO No.13/2014 in C.No.A1/30064/2013 dated 04.01.2014 on the file of the respondent No.3 with all consequential benefits.

For Petitioner : Mr.T.Lajapathi Roy
For Respondents : Mr.M.Jeyakumar,
Additional Government Pleader.

ORDER

The order of deferment of promotion issued by the third respondent in proceeding dated 18.08.2014, is sought to be quashed in the present Writ Petition.

2.The writ petitioner was directly recruited as Sub Inspector of Police and claims that he is having meritorious service and he has received many rewards.

3.The learned counsel appearing on behalf of the writ petitioner states that on account of certain private disputes, a criminal case was registered and citing the pendency of the criminal case, his promotion to the post of Inspector of Police, which was



already granted by the Head Office, was deferred. The deferment order dated 18.08.2014 is under challenge in the present Writ Petition.

4. The deferment order issued by the Commissioner of Police, Madurai City states that the writ petitioner, who was working as Sub Inspector of Police was included in the "C" list of Sub Inspector of Police fit for promotion as Inspector of Police drawn for the year 2013-14 by the Chief Office Memorandum dated 30.12.2013. A counter order was issued in proceeding dated 04.01.2014. The impugned order dated 18.08.2014 itself states that as per the Chief Office Memorandum dated 30.12.2013, some instructions had been issued, which reads as follows:-

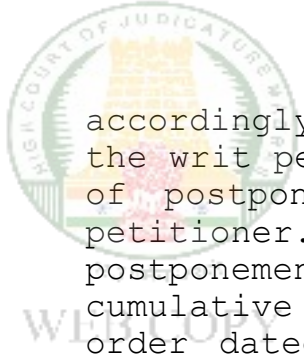
"i) Before the issue of promotion orders the respective unit officers will please ensure that the Sub Inspectors of Police (Cat-1) concerned against whom specific charges under rule 3(b) of TNPSS (D&A) Rules are framed, served and pending disposal (or) charge sheeted in a Criminal case and Pending trial and those who have earned current punishment & after their inclusion in the "C" list should not be promoted, notwithstanding the fact that their names are included in the "C" list. The promotion in such cases should be deferred till the disposal of disciplinary proceedings / criminal case / TDP enquiry / expiry of current punishment. The same procedure should be adopted in cases where such formulated charges are stayed in Tribunal / Court."

5. In the order issued by the Commissioner of Police dated 04.01.2014, it is categorically stated that on verification, it was found that criminal charges were pending against the writ petitioner and accordingly, the promotion order was deferred.

6. The learned counsel appearing on behalf of the writ petitioner states that the criminal case registered against the writ petitioner was in relation to private dispute and not connected with the official duties and responsibilities. Therefore, the pendency of the criminal case ought not to have held against the writ petitioner.

7. The learned counsel appearing on behalf of the writ petitioner states that mere filing of the criminal case alone cannot be a ground for deferring the promotion to the post of Inspector of Police.

8. The learned Additional Government Pleader appearing on behalf of the respondents disputed the contentions of the writ petitioner by stating that the name of the writ petitioner was included in the "C" list fit for promotion to the post of Inspector of Police as per the orders of the Director General of Police. <https://hcservices.ecourts.gov.in/hcservices/> Though he was promoted, subsequently, on verification, it was found that a criminal case was pending against the writ petitioner and



accordingly, the deferment order has been issued on the ground that the writ petitioner was facing a criminal case as well as punishment of postponement of increment was also issued against the writ petitioner. The writ petitioner was awarded with the punishment of postponement of increment for a period of one year without cumulative effect by the Commissioner of Police, Madurai City, by order dated 11.08.2010, based on the proved minute and an appeal filed by the writ petitioner before the Additional Director General of Police, Law and Order, Chennai was also rejected, stating that the charge was proved based on the prosecution statements and exhibits and also the appellant (writ petitioner) has not put forth any fresh point for consideration. CrI.O.P.(MD)No.5044 of 2011 filed before this Court is also pending. Under these circumstances, the case of the writ petitioner was deferred and the impugned order is in accordance with the promotion rules in force.

9.This Court is of the considered opinion that pendency of the criminal case or currency of punishment is a bar for promotion to the higher post. As per the records, the writ petitioner was suffering with the punishment imposed based on the proved charges and this apart, the criminal case was pending against the writ petitioner during the relevant point of time. The promotion is to the post of Inspector of Police in the Uniformed Services. Verification of such records is of paramount importance. The Sub Inspector of Police, who is facing criminal case as well as punishment, cannot be considered for promotion to the higher post of Inspector of Police. Verification of these factors are eminent and the officials, who are all having clean records of service, alone are to be considered for further promotion, more specifically in Uniformed Service.

10.The learned counsel appearing for the writ petitioner made a submission that the criminal case was in relation to certain private disputes.

11.In this regard, this Court is of the considered opinion that any public servant much less than the Police Officer in Uniformed Service is not exempted from the principle that registration of criminal case against the public servant is a bar for further promotion to the higher post. The Government servant must have clean records of service. His behaviour both inside the office and outside the office and while performing duties and while not performing the duties must be good and always the public servant is expected to maintain good conduct in the public. It is not as if a police officer, who is off duty, can involve in some criminal cases or commit certain misconducts.

12.Tamil Nadu Subordinate Police Officers Conduct Rules, 1964 (hereinafter referred to as 'the Rules') categorically narrates that behaving unbecoming of Government servant itself is a misconduct. <https://hcservices.ecourts.gov.in/hcservices/> More specifically, the Rules specifically states that gifts, rewards and dowry are prohibited and if at all received, amounts to



misconduct. Even Rule 3 provides employment of near relatives in companies or firms. Uniformed police officers are performing solemn function and they are vested with more statutory powers to enforce the law and order in the State of Tamil Nadu.

13. In view of their advantageous position, under the law, they are prevented from misusing their position for the purpose of securing employment in private company or firms.

14. Rule 4 of the Conduct Rules says that gift, rewards and dowry are prohibited. Rule 4(1)(b) states that "complementary gift of flowers or fruits or similar articles or trifling values are also prohibited.

15. In respect of the Conduct Rules, it is visible in the public domain that large number of flowers and bouquets are shared by way of gifts in the Police Department. It is broadcasted through various T.V. Channels also. Thus, the Director General of Police is bound to remind the Conduct Rules to all the Police Officials, so as to ensure that such costly flowers and bouquets or similar articles of trifling values are not presented to any police officials. In this regard, the Director General of Police is bound to issue proper circular to all the Subordinate Police Officials to ensure that Conduct Rules in this regard are being followed scrupulously in order to maintain discipline and decorum in the Uniformed Service.

16. As far as the case of the writ petitioner is concerned, he was facing the criminal case during the relevant point of time and imposed with punishment. However, after disposal of the criminal case as well as the currency of punishment, the case of the writ petitioner is to be considered with reference to the promotion rules in force.

17. Even as per the Rules, if an employee is exonerated from the departmental disciplinary proceedings and in the event of no other impediment, the case of the employee should be considered for the promotion to the higher post.

18. This being the rules in force, the following orders are passed:-

"1. The respondents are directed to consider the case of the writ petitioner, after disposal of the criminal case and if there is no other impediment for grant of promotion to the post of Inspector of Police and strictly in accordance with the promotion rules in force.

2. The first respondent / Director General of Police, Chennai, is directed to issue a circular to all the police officers across the State of Tamil Nadu with reference to the Rule 4 of the Conduct Rules, so as to avoid gifts, rewards and dowry. The circular in this regard is directed to be issued within a period of six weeks from the date of receipt of a copy of this order."



19. With these directions, this Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD-I)

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/TRUE COPY/

Sub Assistant Registrar (CS)

To

1. The Director General of Police,
Office of the Director General of Police,
Chennai-4.
2. The Inspector General of Police (South Zone),
Office of the Inspector General of Police,
Madurai.
3. The Commissioner of Police,
Madurai City, Madurai District.

+1 CC to M/s.T.LAJAPATHI ROY, Advocate SR-73135.

+1 CC to SPL GP SR-73172.

W.P (MD) No. 14964 of 2014
02.07.2019

CS: 15/07/2019 5P 6C