



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.10.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P. (MD)No.19100 of 2019

S.Arputhanantham

... Petitioner

Vs.

1.The Government of Tamil Nadu,
Rep. by its Additional Chief Secretary to Government,
Public (Police) Department,
Secretariat,
Chennai-600 009.

2.The Director General of Police of Tamil Nadu,
Dr.Radhakrishnan Salai,
Mylapore,
Chennai-600 004.

3.The Commissioner of Police,
Tirunelveli City,
Tirunelveli.

4.The Principal Accountant General (A & E),
361, Anna Salai,
Teynampet,
Chennai-600 018.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 1 & 2 to consider the petitioner's representation dated 29.05.2019 and promote the petitioner as Inspector of Police for the year 2019-2010 i.e., from any date prior to the date of petitioner's retirement on superannuation on 30.06.2019 A.N., and grant all the service, monetary and pensionary benefits within a time limit to be fixed by this Court.

For Petitioner : Mr.A.Thirumurthy

For Respondents : Mr.S.Dhayalan,
Government Advocate

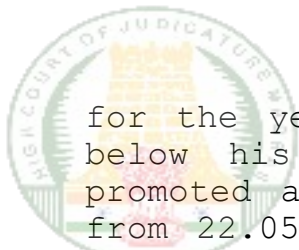


ORDER

This writ petition is filed for a mandamus, directing the respondents 1 & 2 to consider the petitioner's representation dated 29.05.2019 and promote the petitioner as Inspector of Police, for the year 2019-2020 i.e., from any date prior to the date of petitioner's retirement on attaining the age of superannuation on 30.06.2019 A.N., and grant all the service, monetary and pensionary benefits.

2. The petitioner was appointed as Police Constable Grade-II in Tamil Nadu Special Police III Battalion on 11.01.1982. Subsequently, he was transferred to Armed Reserve Police of Thoothukudi District on 23.06.1994. He was promoted as Grade-I Police Constable from 01.09.2000 and then as Head Constable from 05.10.2000. The petitioner was on "Other Duty" (OD) in 'Q' Branch CID. While he was working as Head Constable in Q Branch, the promotion from Head Constable to Sub Inspector of Police for the year 2005 was done by Selection by the Range Promotion Board. The Board conducting a Written Test, Drill Test and Viva Voce on 18.01.2006, 20.01.2006 and 23.01.2006 respectively. Though the petitioner belongs to the Police Constabulary of Thoothukudi District, no communication was sent to him to participate in the above process. Hence, he gave a representation on 20.01.2006 to permit him to participate in the promotion process, but he was not called for any test. Therefore, the petitioner filed a writ petition in W.P(MD)No.1053 of 2006 for a direction to the Superintendent of Police, Thoothukudi District, to include his name in the 'C' list for the year 2006. This Court, by the order dated 04.02.2006, directed the respondents therein to consider the representation of the petitioner dated 20.01.2006. The Superintendent of Police, Thoothukudi District, by order dated 13.04.2009, rejected the representation of the petitioner and informed the petitioner that the selection by Range Promotion Board was dispensed with and promotions will be made only based on the seniority.

3. Challenging the said order, the petitioner filed a writ petition in W.P(MD)No.4824 of 2009, to quash the order, dated 13.04.2009. This Court, by order dated 08.10.2012, directed the respondents therein to promote the petitioner as Sub Inspector of Police and settle the pay and allowances to him from the date on which his juniors were promoted within a period of four weeks. Aggrieved against the said order, the Government filed writ appeal in W.A(MD)No.794 of 2013 and the same was dismissed by this Court on 04.04.2017, but the respondents therein did not implement the order of this Court. Hence, the petitioner filed Contempt Petition in Cont.P(MD)No.378 of 2018. Thereafter, the petitioner was promoted as Sub Inspector of Police, by order dated 25.09.2018, and the Government issued G.O.Ms.No.1433, Home (Police-III) Department, including the name of the petitioner in the 'C' list promotion panel



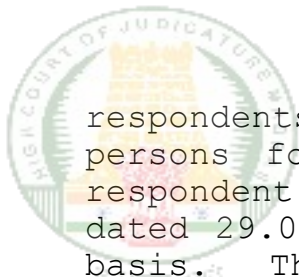
for the year 2005 and his name was included as Sl.No.34(a) i.e., below his immediate Senior viz., K.Saravanaperumal and he was promoted as Sub Inspector of Police on par with his junior i.e., from 22.05.2006. By memo dated 13.05.2019 the second respondent herein published the list of all the Sub-Inspectors of police selected to undergo "Pre-promotion course training fit for promotion as Inspector of Police (TK)" for granting promotion for the year 2018-2019. The petitioner's name was shown at Sl.No.240 in the said list and his immediate junior i.e., K.Anbalagan was placed at Sl.No.241. The petitioner was due to retire on superannuation on 30.06.2019. He gave a representation on 29.05.2019 to the second respondent to promote him as Inspector of Police on priority basis, considering his total service of 38 years and 13 years service as Sub Inspector of Police. But, the second respondent did not promote the petitioner as Inspector of Police. Now, by the memo dated 30.07.2019, the second respondent has published the 'C' list promotion panel of 311 Sub Inspectors of Police (TK) fit for promotion as Inspector of Police for the year 2019-2020. According to the learned counsel for the petitioner, the petitioner's name ought to have been included and placed as Sl. No.95(A) i.e., above his immediate Junior Mr.K.Anbalagan, who was placed as Sl.No.96.

4. The petitioner's name was not included in 'C' list. Without pre-promotion training, the Sub-Inspectors of Police, including his immediate junior Mr.K.Anbalagan have been promoted as Inspector of Police, vide order of the second respondent, dated 13.08.2019. Though the petitioner has put in 38 years of total service, his name was not included in the 'C' list promotion panel of Sub-Inspectors of Police fit for promotion as Inspectors of Police for the year 2019-2010. The action of the second respondent not promoting the petitioner as Inspector of Police before his retirement is invalid and illegal and therefore the petitioner has come up with the present writ petition.

5. The learned Government Advocate appearing for the respondents contended that the name of the petitioner was included in the list of Sub Inspector of Police, selected to undergo pre-promotion course training fit for promotion as Inspector of Police (TK) for the year 2018-2019 and the promotion was made only for the year 2019-2010, by a memo dated 30.07.2019. The petitioner retired from service on 30.06.2019 and therefore, his name was not included.

6. Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents and perused the materials available on record.

7. From the materials on record, it is seen that the petitioner was found fit for promotion to the post of Inspector of Police for the year 2018-2019. His name was included in the panel for pre-promotion course training fit for promotion to the post of Inspector of Police. The said list was published on 13.05.2019. The



respondents have not given any reason for not sending the selected persons for pre-promotion course training. Further, the second respondent has not considered the representation of the petitioner, dated 29.05.2019 to promote him as Inspector of Police on priority basis. The contention of the learned counsel for the petitioner that after his retirement, his juniors were promoted as Inspector of Police, without undergoing pre-promotion course training, is not denied by the respondents. The petitioner has put in 38 years of service, including 13 years of service as Sub Inspector of Police. The petitioner is not at fault for the delay in promoting the Sub Inspector of Police as Inspector of Police.

8. For the above reason, the second respondent is directed to consider the representation of the petitioner, dated 29.05.2019 and pass orders on merits and in accordance with law, if the petitioner is otherwise eligible to be promoted as Inspector of Police, within a period of eight weeks from the date of receipt of a copy of this order.

9. With the above direction, the writ petition is disposed of. No costs.

Sd/-

Assistant Registrar (AD-I)

// True Copy //

Sub Assistant Registrar(CS)

am

To

1.The Additional Chief Secretary to Government,
Public (Police) Department,
Secretariat, Chennai-600 009.

2.The Director General of Police of Tamil Nadu,
Dr.Radhakrishnan Salai,
Mylapore, Chennai-600 004.

3.The Commissioner of Police,
Tirunelveli City, Tirunelveli.

4.The Principal Accountant General (A & E),
361, Anna Salai, Teynampet, Chennai-600 018.

+1 CC to M/s.A. THIRUMURTHY, Advocate (SR-91040[F] dated 03/10/2019
+1 CC to M/s.GP (SR-91338[F] dated 04/10/2019)

W.P. (MD)No.19100 of 2019
03.10.2019