



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.11.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.S. SUNDAR

W.P.MD).No.3073 of 2015

and

M.P.(MD)Nos.1 & 2 of 2015 & W.M.P.(MD)No. 18031 of 2018

R.Karuthapandian

.. Petitioner

Vs.

1.The Director General Of Police
Cum Inspector General of Prisons,
Tamilnadu, Chennai-8.

2.The Deputy Inspector General Of Prisons,
Kovai Region, Kovai District.

3.The Deputy Inspector General Of Prisons,
Madurai Region, Madurai.

4.The Superintendent of Police
Central Prison,
Madurai-16,
Madurai District.

5.The Superintendent of Prison
District Prison, Virudhunagar District. .. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus to call for the records on the files of the fourth respondent pertaining to its proceedings No.9039/G1/2014 dated 08.12.2014 and to quash the same and consequently direct the respondents to give promotional benefits on par with his immediate Juniors and to grant the consequential benefits.

For Petitioner : Mr.S.C.Herold Singh

For Respondents : Mr.R.Murugan,
Additional Government Pleader

ORDER

This Writ petition is filed to issue a Writ of Certiorarified Mandamus to quash the order passed by the fourth respondent, dated 08.12.2014 in proceedings No.9039/G1/2014 and consequently to direct the respondents to give promotional benefits on par with his immediate Juniors and to grant the consequential benefits.

2.The petitioner was appointed as Grade -II warder. It is admitted that the petitioner has suffered punishment on different



occasions for various delinquencies. The list of delinquencies relied upon by the respondent are relevant and they are extracted as follows:-

1. Awarded 'censure' as per proceeding No.22937/G1/2006, dated 06.12.2006 of the Superintendent, Central Prison, Coimbatore.
2. Awarded 'censure' as per proceeding No.2653/G4/2007-1, dated 05.03.2007 of the Superintendent, Central Prison, Coimbatore.
3. Next increment postponed for a period of 2 years without cumulative effect as per proceeding No.8757/G4/09, dated 14.7.09 of the Superintendent, Central Prison, Coimbatore.
4. Next increment postponed for a period of one year without cumulative effect vide Pro.No.13581/SJ3/11, dated 30.12.2011 of the Superintendent, Central Prison, Coimbatore.
5. Next increment postponed for a period of 6 months without cumulative effect as per proceedings No.24057/SJ3/2010, dated 26.9.12 of the Superintendent, Central Prison, Coimbatore."

3. The final punishment was therefore imposed by order dated 26.09.2012, viz., postponement of increment for a period of six months without cumulative effect. Thereafter, there was no charge memo issued or pending. It is not in dispute that the petitioner's name was not considered for promotion, even though his name was there originally in the panel prepared for the year 2014-2015. According to the petitioner, on 08.05.2014, his punishment was over and all the charges levelled against him attained its finality. Hence, he is entitled for promotion to the post of Grade - I warder, if his name is considered along with others, who are included in the panel list for the year 2014-15. The petitioner was not considered for promotion only for the reason that the punishment dated 26.09.2012, is in currency and hence inclusion of petitioner is not feasible during the check period. The order giving reason for non-inclusion of the petitioner's name for promotion, is challenged in the present writ petition.

4. Having regard to the admitted facts, there is no punishment in currency as it has already been held that the check period of five years, even for minor punishment of censure is unconstitutional by this Court. Thereafter, the respondents have framed rules in tune of the judgment of this Court. The Hon'ble Full Bench of this Court in **the Deputy Inspector General of Police, Thanjavur Range Vs. V.Rani** reported in **2011 (3) CTC 129** has held that an embargo was put on the right of Government servant for being considered for promotion for a further period, after the period of minor punishment is over, in the name of 'check period' viz., one year in the case of censure and five years in the case other minor punishments, is



illegal and impermissible under the Statutory Rules.

5. In such circumstances, the non-inclusion in the impugned order refusing to consider the petitioner for the promotion to the post for the year 2014-15 is invalid, arbitrary and therefore, the order impugned is liable to be quashed. Hence, this Writ Petition is allowed and the impugned order passed by the fourth respondent in its proceedings No.9039/G1/2014 dated 08.12.2014, is hereby quashed.

6. The respondents are directed to consider the petitioner's name for promotion by placing the name in the list for the year 2014-15 and give promotion to the petitioner on par with his immediate juniors in accordance with law. This exercise shall be done by the respondents within a period of three months from the date of receipt of a copy of this order. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (W)

// True Copy //

Sub Assistant Registrar(CS)

Ls

To

1. The Director General Of Police
Cum Inspector General of Prisons,
Tamilnadu, Chennai-8.

2. The Deputy Inspector General Of Prisons,
Kovi Region, Kovi District.

3. The Deputy Inspector General Of Prisons,
Madurai Region, Madurai.

4. The Superintendent of Police
Central Prison, Madurai-16,
Madurai District.

5. The Superintendent of Prison
District Prison, Virudhunagar District.

+1 CC to M/s.S.C. HEROLD SINGH, Advocate (SR-97927[F] dated
13/11/2019)

+1 CC to M/s.SPL GP (SR-98090[F] dated 13/11/2019)

W.P.MD).No.3073 of 2015

12.11.2019

SMA/17/12/19/3P/8C