



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.09.2019

CORAM :

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P. (MD)No.15042 of 2017

1.P.Subramanian
2.N.Perinbaraj

... Petitioners

vs.

1.The State of Tamil Nadu,
Rep. by its Home Secretary,
Fort St. George,
Chennai - 600 009.

2.The Director General of Police,
O/o. The Director General of Police,
Mylapore,
Chennai - 600 004.

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

... Respondents

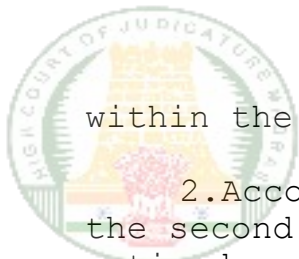
Writ Petition filed under Article 226 of the Constitution of India, seeking for issuance of a Writ of Mandamus, directing the respondents to upgrade the petitioners as Special Sub-Inspector with effect from the first of the month succeeding the date of completion of the required 25 years of service along with all monetary and pensionary benefits and payments as per 6th Pay Commission recommendations with interest, within the time stipulated by this Court.

For Petitioners : Mr.T.Lajapathi Roy

For Respondents : Mr.S.Dhalayan
Government Advocate

ORDER

This Writ Petition has been filed seeking for issuance of a Writ of Mandamus, directing the respondents to upgrade the petitioners as Special Sub-Inspector with effect from the first of the month succeeding the date of completion of the required 25 years of service along with all monetary and pensionary benefits and payments as per 6th Pay Commission recommendations with interest,



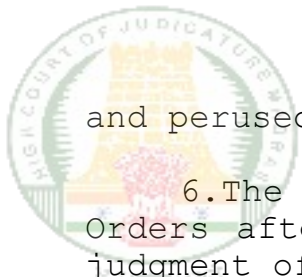
within the time stipulated by this Court.

2. According to the petitioners, they have joined the service of the second respondent on 07.03.1973 and 09.01.1975 respectively, and retired on 30.04.2008 as Selection Grade Head Constable after rendering 35 years and 33 years of unblemished service respectively. According to the petitioners, in order to prevent the stagnation of Police Personnel in the same cadre for long periods, the first respondent passed various Government Orders, as per which, a Police Constable Grade - II, who had completed 10 years of service, will be upgraded as Police Constable Grade - I and a Police Constable Grade - I, who had completed 15 years of Service, will be upgraded as Head Constable. A person, who had completed 25 years of overall service, of which, 5 years of service as Head Constable, will be upgraded as Special Sub-Inspector of Police. The petitioners were not upgraded as Special Sub-Inspector of Police, even though they have put in 35 years and 33 years of service respectively. Similarly placed persons like the petitioners, filed W.P.(MD) Nos.2096 and 2097 of 2011 and this Court, by order dated 30.11.2011, rejected their request, against which, they filed W.A(MD)Nos.237 and 238 of 2012 and a Division Bench of this Court, by common judgment dated 17.06.2013, allowed the said Writ Appeals, holding that the persons, similarly placed like the petitioners, are entitled to promotion as Sub-Inspector of Police. The respondents have implemented the said order. The petitioners gave representation on 15.05.2017 and 12.05.2017 respectively and also gave a common representation on 13.07.2017 to the respondents seeking upgradation as Special Sub-Inspector of Police with all monetary benefits. The third respondent has not passed any order thereon. Hence, the petitioners have come up with the present Writ Petition.

3. The third respondent filed counter affidavit on his behalf and on behalf of the respondents 1 and 2.

4. The learned Government Advocate appearing for the respondents contended that as per the Government Orders relied on by the petitioners, they are not entitled to the relief with retrospective effect after retirement. The petitioners retired on 30.04.2008 on attaining the age of superannuation. They made representations only in the year 2017 and therefore, this Writ Petition is liable to be dismissed on the ground of delay and laches. Further, the upgradation is made on the first day of June of every year and the petitioners retired on 30.04.2008 and therefore, they are not entitled to the relief sought for by them in the present Writ Petition. The learned Government Advocate relied on Paragraph 14 of the counter affidavit filed by the third respondent, wherein it has been stated that similar writ petitions filed were dismissed by this Court on the ground of delay and on merits and prayed for dismissal of this Writ Petition.

<https://hcservices.ecourts.gov.in/trservices> 5. I heard the learned counsel appearing for the parties



and perused the materials available on record.

6.The petitioners are claiming the benefit of the Government Orders after completion of 25 years of service and relying on the judgment of this Court dated 17.06.2013, made in W.A.(MD)Nos.237 and 238 of 2012 etc. batch in support of their claim, whereas the learned Government Advocate contended that the Writ Appeal filed by the similarly placed persons were dismissed.

7.Though the petitioners have claimed a larger relief in the Writ Petition, when the matter is taken up for hearing, the learned counsel appearing for the petitioners submitted that the petitioners sent representation to the third respondent and in the counter filed by the third respondent, it has been stated that the third respondent endorsed the representation on 27.09.2017 and informed the petitioners that their representations were sent to the second respondent for necessary orders and on receipt of the order from the second respondent, it will be intimated to them.

8.In view of the averments made in Paragraph 12 of the counter affidavit, without deciding the rival contentions of the learned counsel appearing for the petitioners as well as the learned Government Advocate appearing for the respondents on merits, this Court directs the respondents 2 and 3 to consider the representation of the petitioners, dated 15.05.2017 and 12.05.2017 and 13.07.2017 on merits and in accordance with law, within a period of 12 weeks from the date of receipt of a copy of this order.

9.This Writ Petition is disposed of with the above direction. No costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS)

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To

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

2.The Director General of Police,
O/o. The Director General of Police,
Mylapore,
Chennai - 600 004.



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

+1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-86066[F] dated
10/09/2019)

+1 CC to M/s.GP (SR-86138[F] dated 10/09/2019)

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