

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.02.2020

CORAM

THE HONOURABLE Mr.JUSTICE N.ANAND VENKATESH

WP.No.2387 of 2020

R.Gopalakrishnan

.. Petitioner

- Vs -

1. The Director General of Police,
Tamil Nadu,
Chennai-600 004.

2. The Commissioner of Police,
City Police Office,
Coimbatore City,
Coimbatore-18.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorarified Mandamus, to call for the records pertaining to the order of the second respondent herein in his Rc.No.A2/42551/2019 dated 20.01.2020 and quash the same and consequently, direct the respondents herein to temporarily promote the petitioner as Special Sub Inspector of Police as done by the first respondent herein in his proceedings Rc.No.2020/888/NGB V(1)/P-08/2019 dated 13.08.2019.

For Petitioner : Mr.Ravi Shanmugam

For Respondents: Mr.K.Parameswaran

Government Advocate

O R D E R

This writ petition has been filed challenging the order passed by the second respondent dated 20.01.2020 and for consequential direction to the respondents to give temporary promotion to the petitioner as a Special Sub-Inspector of Police.

2. The case of the petitioner is that he was working as a Grade-I Police Constable. The petitioner is entitled for promotion to the post of Special Sub Inspector and according to the petitioner, the juniors have been promoted as Special Sub Inspectors even in the year 2013.

3. A criminal case came to be registered against the petitioner and another, who was also a Woman Sub Inspector of Police, working in the same Police Station. This case was investigated and a final report came to be filed against the petitioner and another and the same was taken on file in C.C.No.115 of 2012 for an offence under Sections 324 and 326 of IPC. This Criminal case was put against the petitioner and was not considered for promotion.

4. The further case of the petitioner is that the other Sub Inspector of Police, who is also a co-accused in this case, had filed a writ petition in WP.No.18584 of 2018 to promote her without reference to the charge sheet that was pending. On 06.09.2018, this Court disposed of the writ petition directing the respondents to consider the claim made by the concerned Sub Inspector of Police.

5. The Commissioner of Police, Coimbatore City, forwarded the proposal to the Director General of Police and ultimately, the co-accused was granted temporary promotion and posting as Inspector of Police by proceedings dated 13.08.2019.

6. The petitioner also sought for the same relief and requested for promotion to the post of Special Sub Inspector. The request made by the petitioner was rejected on the ground that the criminal case is pending and the earlier orders passed by this Court only pertained to the other co-accused and it cannot be taken advantage by the petitioner. Aggrieved by the same, the present writ petition has been filed before this Court.

7. The learned counsel for the petitioner submitted that the respondents ought to have treated the petitioner on par with the other co-accused and the respondents ought to have given temporary promotion to the petitioner as Special Sub Inspector. The learned counsel further submitted that the relevant Rules enables the respondents to grant temporary promotion without reference to the criminal case. The learned counsel further submitted that the promotion can be made subject to the result of the criminal case and the petitioner cannot be singled out and he has to be treated on par with the co-accused, who has already been granted promotion and posting as Inspector of Police.

8. The learned Government Advocate appearing on behalf of the respondents submitted that the petitioner was facing a serious charge under Sections 324 and 326 of IPC and therefore, he cannot be considered on par with the other co-accused against whom a final report was filed only for an offence under Section 324 of IPC. The learned Government Advocate further submitted

that the Director General of Police had considered the entire facts and circumstances of the case and found that the petitioner stands in a different footing and the petitioner has to necessarily await the results of the criminal proceedings and therefore, the petitioner is not entitled for consideration of temporary promotion to the post of Special Sub Inspector. The learned Government Advocate, therefore, concluded his submission by stating that there is absolutely no merit in this writ petition and the same is liable to be dismissed.

9. This Court has carefully considered the submissions made on either side and the materials available on record.

10. This Court wanted to satisfy itself with regard to the nature of allegation that has been made in the criminal case against the petitioner and the co-accused. It is seen that the petitioner and the co-accused were present in the Police Station and they had asked the accused persons, against whom a complaint was made, to appear in the Police Station for enquiry. The de facto complainant was also asked to be present in the police station. The Advocate, who was representing the accused persons, had protested the conduct of enquiry on the ground that the case is purely civil in nature. There were some arguments and there was some melee that ensued and the de facto complainant is said to have pushed down the petitioner. That resulted in the parties coming to blows. This was the background under which, the criminal case came to be registered.

11. After investigation, a final report has been filed before the concerned Court for an offence under Sections 324 and 326 of IPC. The co-accused had sought for promotion to the post of Inspector pending the criminal case. Pursuant to the directions given by this Court, her request was considered and the Director General of Police, by his proceedings dated 13.08.2019 had granted promotion and posting orders to the co-accused in this case as Inspector of Police on temporary basis. The petitioner wants him to be treated similarly and requested for temporary promotion to the post of Special Sub Inspector. This was rejected on the ground that the charges are serious and the petitioner has to wait for the completion of the criminal proceedings.

12. In the considered view of this Court, the petitioner ought to have been treated equally on par with the co-accused. The request made by the petitioner must have been considered by the respondents and he should have been given temporary promotion as a Special Sub Inspector, pending the criminal case. The Criminal case does not involved any moral turpitude on the part of the petitioner and the entire incident had taken place in the spur of the movement. Therefore, whatever relief was

given to the co-accused must also be considered for the petitioner.

13. In view of the above discussion, the impugned proceedings of the second respondent dated 20.01.2020 is quashed and there shall be a direction to the respondents to consider the temporary promotion of the petitioner to the post of Special Sub Inspector of Police and appropriate orders shall be passed in this regard, within a period of four (4) weeks from the date of receipt of a copy of this order.

14. This writ petition is allowed with the above directions. No costs.

-s/d-
Assistant Registrar (CCC)

True Copy

Sub-Assistant Registrar

kmi
To

1. The Director General of Police,
Tamil Nadu,
Chennai-600 004.

2. The Commissioner of Police,
City Police Office,
Coimbatore City,
Coimbatore-18.

+1 CC to Mr. Ravishanmugam, Advocate sr 11553.
+1 CC to Govt. Pleader sr 12421.

सत्यमेव जयते

WP.No.2387 of 2020

RV (CO)
SP(19/02/2020)

WEB COPY