

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 02.12.2020

C O R A M

The Hon'ble Mr. Justice SENTHILKUMAR RAMAMOORTHY

Writ Petition No.24395 of 2010

J.Francis Xavier

.. Petitioner

vs.

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

2. The Joint Commissioner of Police,
Traffic, Chennai Police,
Chennai-600 008.

.. Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying to issue a writ of Certiorarified Mandamus to call for the records connected with the proceedings issued in Rc.No.147713/NGB.V(2)/2009 dated 23.10.2009 passed by the 1st Respondent and quash the same and consequently, direct the respondents to promote the petitioner as Sub Inspector of Police from 1991 onwards retrospectively.

For Petitioner : Mr.S.Ilamvaluthi

For Respondents : Ms.R.J.Radhika, GA

O R D E R

I heard Mr.S.Ilamvaluthi, the learned counsel for the Petitioner.

2. This writ petition is filed challenging the order dated 23.10.2009 whereby the petitioner's request to be considered for promotion to the post of Sub Inspector of Police was rejected. The case of the Petitioner is that he was placed under suspension by proceedings dated 24.09.1990 of the Deputy Commissioner of Police. As a consequence thereof, he was not called for the selection test in the year 1991. Subsequently, the FIR which was filed was closed and the Petitioner was reinstated into service on 23.02.1993 and the entire period of suspension was treated as a period of duty. On this basis, the Petitioner filed the present writ petition stating that he was placed under suspension for no fault of his and but for such suspension he would have been entitled to be considered for promotion of the Sub Inspector of Police in the year 1991.

3. Mr. Ilamvaluthi, the learned counsel for the Petitioner submits that the Petitioner would have been entitled to be considered for selection in the year 1991 but for the suspension, which was subsequently revoked by concluding that the entire period of suspension be treated as a period of duty. He also pointed out that the FIR was closed on the basis that there was a mistake of fact. In these facts and circumstances, he submits that the petitioner was deprived of his right to be considered for promotion.

4. I considered the submissions of the learned counsel and examined the impugned order.

5. From the impugned order, it is clear that though the petitioner was not called for the selection process in 1991-92, he participated in the selection process for subsequent periods such as 1999-2000, 2002, 2003 & 2004-2005. However, he did not clear the selection process during the said years. The impugned order cites the aforesaid as the reason for denying the request of the petitioner.

6. Upon perusal of the said order and upon consideration of the reasons cited therein, I find that there is no infirmity in the impugned order inasmuch as it is not an automatic promotion to the post of Sub Inspector of Police. Consequently, in light of the fact that the petitioner failed to clear the selection process in the subsequent years after the revocation of suspension, he is not entitled to the relief prayed for in this writ petition. Nonetheless, it is made clear that the consideration of the Petitioner for promotion in future shall not be influenced in any manner by the observations contained herein. No costs.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

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

2. The Joint Commissioner of Police,
Traffic, Chennai Police,
Chennai-600 008.

+1cc to the Government Pleader SR.NO.38881

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SDR 18/12/2020