

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.02.2020

CORAM:

THE HONOURABLE Mr. JUSTICE N. ANAND VENKATESH

W.P.No.3038 of 2020

V.Murugesan

... Petitioner

-Vs-

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

2. The Additional Director General of Prisons,
Chennai 600 008.

3. The Superintendent,
Borstal School, Pudukottai.

4. The Superintendent of Prisons,
Central Prison, Trichy.

.... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents 1 and 2 to include the petitioner over and above his immediate junior Murugesu Muthuramalingam in the regular panel of Deputy Jailor fit for appointment as Jailor by recruitment by transfer for the year 2013-2014 issued in G.O.Ms.No.78 Hime (Prison-I) Department dated 30.01.2014 and consequently, to promote the petitioner as Jailor from the date (30.01.2014) on which his immediate junior namely Murugesu Muthuramalingam was promoted with all service and monetary benefits including full pay and allowances, revised pension and arrears.

For Petitioner : Mr.P.I.Thirumoorthy

For Respondents : Mr.V.Prabhu
Government Advocate

ORDER

This Writ Petition has been filed for the issue of writ of Mandamus directing the respondents 1 and 2 to include the petitioner's name, over and above his immediate junior in the regular panel of District Jailor and consider the petitioner fit for appointment as a Jailor with effect from 2013-2014 and to provide the petitioner with all service and monetary benefits and consequently to revise the pension and pay the arrears.

2. The case of the petitioner is that he was selected as an Assistant Jailor in the year 1984. The seniority list of Assistant Jailor was drawn in the year 2003 and the petitioner was placed at Sl.No.21. In the year 2018, a criminal case came to be filed against the petitioner and therefore, the petitioner was kept under suspension. The order of suspension came to be stayed and therefore, the petitioner was taken back to service.

3. The further case of the petitioner is that in the year 2014, the regular panel of District Jailors for the year 2013-14 was prepared and the name of the petitioner was excluded. But however, the name of his junior was included. Therefore, the petitioner's immediate junior was promoted as Jailor in the year 2014.

4. The criminal proceedings against the petitioner ended in an acquittal in the year 2015. In the year 2015, the petitioner attained Superannuation and he was permitted to retire, subject to the outcome of the disciplinary proceedings. The petitioner gave his explanation in the departmental enquiry. By the proceedings of the 2nd respondent dated 23.02.2018, the Disciplinary proceedings initiated against the petitioner came to be cancelled. By proceedings dated 31.03.2018, the 4th respondent treated the period of suspension as duty period.

5. In view of the above developments, the petitioner made a representation to the respondents to include his name in the panel for promotion as a Jailor on par with his junior and to grant all consequential benefits and to revise the pension and pay the arrears. This representation was sent by the petitioner on 04.01.2019. After this representation was made, the 2nd respondent has initiated proceedings dated 22.02.2019 and he directed the 3rd respondent to send details of the petitioner.

The 3rd respondent has also given the details of the petitioner to the 2nd respondent by his letter dated 15.06.2019. Even thereafter, there was no progress in the earlier representation that was given by the petitioner. Therefore, the petitioner gave one more representation on 19.10.2019. Since the same did not evoke any response, the present writ petition has been filed before this Court.

6. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents.

7. Taking into consideration the facts and circumstances of the case and also of the fact that the representation of the petitioner was already taken into account and the 2nd respondent has already initiated proceedings and called for particulars from the 3rd respondent and the 3rd respondent has also submitted the particulars to the 2nd respondent on 15.06.2019, this Court deems it fit to direct the 2nd respondent to immediately act upon the reply given by the 3rd respondent on 15.06.2019 and send its report to the 1st respondent, within a period of four weeks from the date of receipt of copy of this order. On receipt of the proposal from the 2nd respondent, the 1st respondent shall consider the same on its own merits and in accordance with law and pass appropriate orders within a period of eight weeks thereafter. The petitioner is directed to make a fresh representation to the 1st respondent along with the proceedings of the 2nd respondent dated 22.02.2019 and 31.05.2019 and also a copy of the letter of the 3rd respondent dated 15.06.2019 along with copy of this order. The copy of the representation shall also be marked to the 1st respondent.

8. This writ petition is disposed of with the above directions. No costs.

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Assistant Registrar(CS V)
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Sub Assistant Registrar

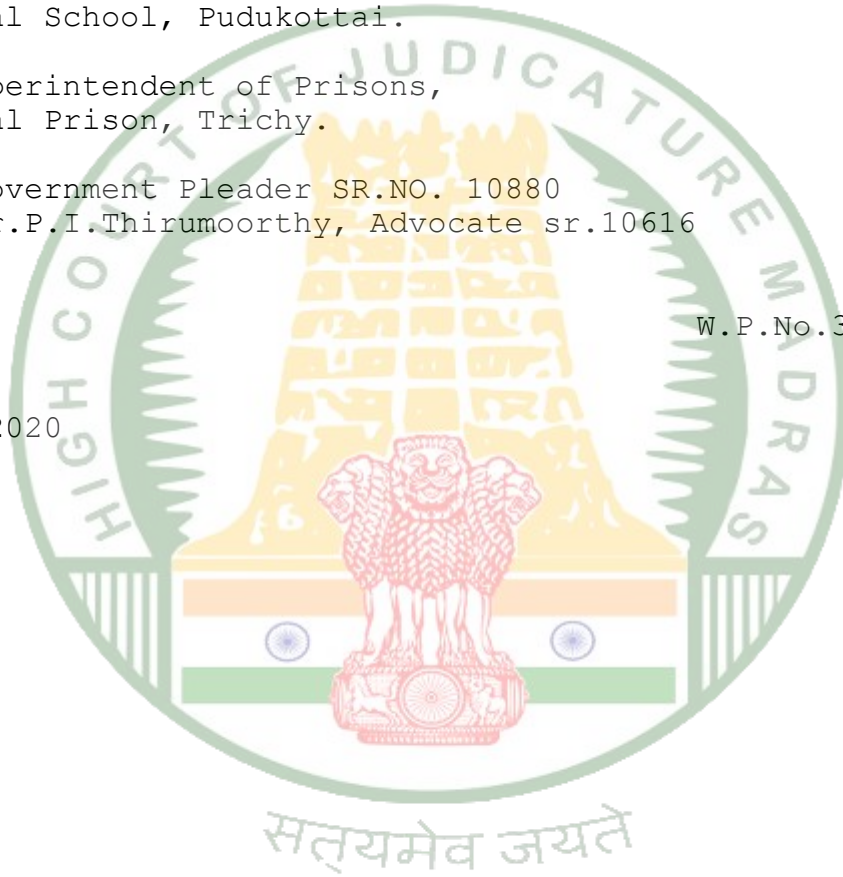
To

- 1.The Secretary to Government of Tamil Nadu,
Home Department,
Fort St. George, Chennai 600 009.
2. The Additional Director General of Prisons,
Chennai 600 008.
3. The Superintendent,
Borstal School, Pudukottai.
4. The Superintendent of Prisons,
Central Prison, Trichy.

+1cc to Government Pleader SR.NO. 10880
+1cc to Mr.P.I.Thirumoorthy, Advocate sr.10616

W.P.No.3038 of 2020

ssv(co)
nr 17/02/2020



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