

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 29.01.2020
CORAM
THE HONOURABLE Mr.JUSTICE D.KRISHNAKUMAR

W.P.No.33196 of 2013
and M.P.No.1 of 2013

1 S.PRABAKARAN
S/O.V.SAMINATHAN,
NO.2 DEPUTY COMMISSIONERS QUARTERS,
SANKAGIRI MAIN ROAD, SALEM 636 002 PETITIONER

Vs.

1 THE GOVERNMENT OF TAMILNADU
REP. BY SECRETARY TO GOVERNMENT,
HOME DEPT., FORT ST. GEORGE, CHENNAI-9

2 THE DIRECTOR GENERAL OF POLICE,
TAMILNADU, O/O.DIRECTOR GENERAL OF
POLICE, TAMILNADU,
KAMARAJAR SALAI, MYLAPORE,
CHENNAI-4 ... RESPONDENTS

Prayer:- The Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus, calling the records of the 1st respondent pertaining to the order G.O. (D) 428 Home (SC) Department dated 17.6.2013 and quash the same and consequently direct the 1st respondent to award the overall rating of performance to the petitioner as Outstanding for the periods 11.6.2006 to 31.3.2007 and 1.4.2007 to 12.7.2007 respectively with all consequential benefits.

For Petitioner : Mr.V.T.Gopalan
Sr. Counsel for
Mr.A.Kalaiselvan
For Respondents : Mr.J.Ramesh, A.G.P.

O R D E R

Writ petitioner was directly recruited as Deputy Superintendent of Police (Category - I) through Tamil Nadu Public Service Commission and promoted as Superintendent of Police on 11.6.2006 and he was posted as Deputy Commissioner of Police (Traffic), South Traffic District, Chennai. Thereafter, he was transferred from one station to another. When he was ***serving as commandant, Tamil Nadu Special Police XV Battalion, Sundarampalli, Vellore District** the petitioner's name was considered for conferring 'I.P.S.' by promotion based on his performance. Based on the Confidential report, the Selection Committee as per Regulation shall classify the eligible officers as 'Outstanding', 'Very Good', 'Good' or 'unfit' based on the overall relative assessment of their service records. Based on the list prepared in accordance with Regulations shall be forwarded to the Union Public Service Commission by the State Government to include their names in the Select list. As per the Regulation, Union Public Service Commission shall consider the list prepared by the Committee along with the documents received from the State Government as per the Regulation. Insofar as the writ petitioner is concerned, the petitioner became eligible for conferring 'I.P.S.' for the year 2006. However, the petitioner's name was not included in the list of eligible officers for the year 2008 due to improper assessment of Annual Confidential report/Special Confidential report (service records) for the period from 11.6.2006 to 31.3.2007 and 1.4.2007 to 12.7.2007. The writ petitioner made representation to the first respondent to expunge or modify the adverse remarks made against the writ petitioner. But the same was rejected on the ground that there is no such provision to modify or expunge the remarks. Therefore, the petitioner filed W.P.No.8047 of 2010 challenging the ***Order of the first respondent dated 07.08.2009**. By order, dated 19.12.2011, this Court set aside the order, dated 7.8.2009 and directed the first respondent to consider on merit and pass appropriate orders within six weeks thereafter.

2. The learned Senior counsel appearing for the petitioner submitted that this Court specifically directed the second respondent to communicate the remarks on the representation made by the petitioner. The aforesaid order has not been complied with by the second respondent. Since the second respondent, Director General of Police had not communicated the remarks to the first respondent, the first respondent passed the order without obtaining any remarks from

the second respondent. Hence, the impugned order is liable to be set aside and the respondents may be directed to consider afresh, after obtaining remarks from the second respondent as directed by this Court.

3. In the counter affidavit filed by the first respondent, it is stated that the first respondent duly followed the guidelines issued in G.O.Ms.No.11, Personnel and Administrative Reforms (Per-R) Department, dated 5.1.1984 and after obtaining the remarks from the Reporting Officers in both the Confidential Reports and Scrutinizing Officer for the period 11.6.2006 to 31.3.2007 and from 1.4.2007 to 12.7.2007 and after hearing the petitioner in person on 14.6.2013, passed the impugned order by rejecting the petitioner's representation. Therefore, according to the first respondent, only remarks of the Reporting/Scrutinizing Officers are required to be obtained on the representation made in connection with remarks recorded in Confidential Reports.

4. On a perusal of the order passed by this Court, a specific direction issued to the second respondent to communicate the remarks on the representation made by the petitioner to the first respondent, within a period of four weeks from the date of receipt of copy of the said order. In the counter affidavit filed before this Court on the impugned order, dated 17.6.2013, the first respondent nowhere whispered about the remarks received from the second respondent. The order passed by this Court on 19.12.2011 has not been complied with by the first respondent. Also, the first respondent has not filed any application for clarification or modification of the earlier order passed by this court. On the aforesaid ground, the impugned order is liable to be quashed. Therefore, this Court is inclined to pass the following order:

- (i) The impugned order, dated 17.6.2013 passed by the first respondent is quashed and remitted to the first respondent to consider afresh and pass appropriate orders.
- (ii) As directed by this Court, in compliance to the order passed in W.P.No.8047 of 2010, dated 19.12.2011, the second respondent shall communicate his remarks to the first respondent on the representation made by the petitioner, within a period of two weeks from the date of receipt of copy of the order.
- (iii) On receipt of remarks from the second respondent, the first respondent shall consider afresh and pass appropriate orders on merit and in accordance with law, after providing opportunity to the writ petitioner, as expeditiously as possible preferably within a period of six weeks thereafter.

5. The writ petition is allowed with the above directions. No costs. Connected miscellaneous petition is closed.

-s/d-

Assistant Registrar

***Corrected as per order
of this Court dated 13.02.2020**

-s/d-

**Assistant Registrar(CSVI)
dt 18/02/2020**

True copy

Sub-Assistant Registrar

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To

- 1 THE SECRETARY TO GOVERNMENT
GOVERNMENT OF TAMIL NADU
HOME DEPARTMENT
FORT ST GEORGE CHENNAI-600 009 / corrected to be
substituted to the
order earlier despatched
on 11/02/2020
2. THE DIRECTOR GENERAL OF POLICE
TAMILNADU O/o.DIRECTOR GENERAL OF POLICE
TAMIL NADU KAMARAJAR SALAI MYLAPORE
CHENNAI-600 004

+1cc to Government Pleader sr7672

+2cc to Mr.A.Kalaiselvan Advocate sr*11577

W.P.No.33196 of 2013

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