

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.12.2020

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.2671 of 2014

G.K.Murthy

... Petitioner

Vs.

1.The Deputy Inspector General of Police,
Thanjavur Range,
Thanjavur.

2.The Superintendent of Police,
Nagapattinam.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for records of the impugned order passed by the 1st respondent in C.No.A1/8357/13/RO 395/13 dated 13.11.2013 and to quash the same and consequently direct the respondents to grant notional promotion as Inspector of Police for purpose of pension in the light of Rule 25 (b) of Special Rules for Tamil Nadu Police Subordinate Service and in the light of Paras 2 and 3 of the order of Hon'ble Division Bench, High Court, Madras in W.A.No.500 of 2008 dated 16.6.2008 within a stipulated period of time as prescribed by this Hon'ble Court.

For Petitioner : Mr.S.Babu
for M/s.K.Shanmugam

For Respondents : Mr.S.Thangavel
Special Government Pleader

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O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Certiorarified Mandamus calling for records of the impugned order passed by the first respondent in C.No.A1/8357/13/RO 395/13 dated 13.11.2013 and to quash the same and to consequently direct the respondents to grant notional promotion as Inspector of Police for purpose of pension in the light of Rule 25 (b) of Special Rules for Tamil Nadu Police

Subordinate Service and in the light of Paras 2 and 3 of the order of the Division Bench of this Court in W.A.No.500 of 2008 dated 16.6.2008 within a stipulated period of time as prescribed by this Court.

2.The case of the petitioner is that the petitioner was appointed as P.C. in the Tamil Nadu Special Police Battalion at Avadi during the year 1969 and was promoted as Naik during the year 1980 and further promoted as Havildar during the year 1981 and thereafter, he was transferred to A.R.Nagapattinam during the year 1982.

3.It is the further case of the petitioner that on transfer to A.R.Nagapattinam, the petitioner was degraded as P.C. and was promoted as Naik during the year 1985. During the year 1987, the was transferred to Law and Order in Nagapattinam and was degraded as P.C. Grade II. Thereafter during the year 1995, the petitioner was promoted as Grade I and further promoted as Head Constable during the year 1998 in Nagapattinam Law and Order and retired as H.C. From Mayiladuthurai (Traffic) on 28.02.2003.

4.It is the further case of the petitioner that he was degraded twice during his service and it is in total violation of Rule 25 (b) of the Special Rules for Tamil Nadu Police Subordinate Service and is also in violation of various decisions of this Court. Since the grievance of the petitioner was not redressed, after retirement, he made detailed representation to the respondents and since there was no reply, he filed W.P.No.20926 of 2013. Pursuant to the order of this Court dated 31.07.2013 made in W.P.No.20926 of 2013, the impugned order was passed by the first respondent. Hence, this writ petition.

5.The learned counsel appearing for the petitioner would submit that though the petitioner did not challenge the degradation suffered by him twice, the petitioner is entitled to claim seniority and notional promotion as Inspector of Police on par with his batchmates as per Rule 25 (b) of Special Rules for Tamil Nadu Police Subordinate Service. However, without considering these aspects, the first respondent simply passed the impugned order which is un-sustainable one. Accordingly, he prayed for allowing the writ petition.

6.The learned Special Government Pleader would submit that the petitioner was appointed as Police Constable in the Tamil Nadu Special Police Battalion at Avadi during the year 1969 and was promoted as temporary Havildar during the year 1981 on out of seniority basis in the existing vacancy. Thereafter, the petitioner was transferred and posted to Armed Reserve, Nagapattinam during the year 1982, as Grade II Police purely on

his willingness by foregoing his seniority in the Tamil Nadu Special Police Battalion.

7.The learned Special Government Pleader would further submit that thereafter the petitioner was promoted as Naik and subsequently, he was transferred to local Police Station as Grade II Police Constable during the year 1987 by foregoing his seniority in Armed Reserve, Nagapattinam. Thereafter the petitioner was promoted as Grade I Police Constable and further promoted as Head Constable on par with his batchmates as per seniority and existing Rules. The petitioner retired from service on 28.02.2003 on attaining the age of superannuation.

8.The learned Special Government Pleader would further submit that Rule 25 (b) of Special Rules for Tamil Nadu Police Subordinate Service was strictly enforced without any deviation and the petitioner was placed in appropriate place among his batchmates. He would further submit that the petitioner was also informed that the verdict made in W.A.No.500 of 2008 was superseded by the latest judgment in W.A.Nos.398 and 399 of 2013, wherein, it is stated that no pay protection/ rank protection shall be given to the person who are opting for transfer from Tamil Nadu Special Police Battalion to Armed Reserve and then to Taluk Police Station. Accordingly, he prayed for dismissal of the writ petition.

9.Heard the arguments advanced on either side and perused the materials available on record.

10.The facts in the present case is not disputed. The petitioner was appointed as Police Constable in the Tamil Nadu Special Police Battalion at Avadi during the year 1969 and was promoted as temporary Havildar during the year 1981 on out of seniority basis in the existing vacancy. Thereafter, the petitioner was transferred and posted to Armed Reserve, Nagapattinam during the year 1982, as Grade II Police purely on his willingness by foregoing his seniority in the Tamil Nadu Special Police Battalion. Thereafter the petitioner was promoted as Naik and subsequently, he was transferred to local Police Station as Grade II Police Constable during the year 1987 by foregoing his seniority in Armed Reserve, Nagapattinam. Thereafter the petitioner was promoted as Grade I Police Constable and further promoted as Head Constable and he retired from service on 28.02.2003 on attaining the age of superannuation.

11.Rule 25(b) of Special Rules for Tamil Nadu Police Subordinate Service Rules makes it clear that the transfer of a person from one class or category of the service to another

class or category carrying the same pay or scale of pay shall not be treated as first appointment to the latter for purposes of seniority and the seniority of a person so transferred, shall be determined with reference to the rank in the class or category from which he was transferred. Where any difficulty or doubt arises in applying this sub-rule seniority shall be determined by the appointing authority.

12. In the present case, the petitioner was transferred and posted to Armed Reserve, Nagapattinam during the year 1982, as Grade II Police purely on his willingness by foregoing his seniority in the Tamil Nadu Special Police Battalion. Thereafter the petitioner was promoted as Naik and subsequently, he was transferred to local Police Station as Grade II Police Constable during the year 1987 by foregoing his seniority in Armed Reserve, Nagapattinam. Hence, Rule 25(b) of Special Rules for Tamil Nadu Police Subordinate Service Rules is not applicable to the petitioner.

13. Further, the petitioner retired from service on 28.02.2003 on attaining the age of superannuation and he has approached this Court only after ten years of his retirement. There is no proper explanation for the delay in approaching this Court after a long period.

14. In view of all the above, this Court is not inclined to grant the relief sought for in this writ petition. This writ petition is accordingly dismissed. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

To

1. The Deputy Inspector General of Police,
Thanjavur Range,
Thanjavur.

2. The Superintendent of Police,
Nagapattinam.

+lcc to the Government Pleader sr.39824

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