



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD)No.6613 of 2015

WEB COPY

R.Sukumaran

... Petitioner

Vs.

1.The Director General of Police,
Tamil Nadu, Chennai.

2.The Superintendent of Police,
Kanyakumari District,
at Nagercoil.

... Respondents

PRAYER: Writ Petition under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, call for the records of the 2nd respondent's impugned order in C.No.A3/21775/2014 dated 05.05.2014 and quash the same as illegal and consequently, directing the 2nd respondent to revised the petitioner's pensionary benefit by taking consideration of the implementation of G.O.Ms.No.210 Personnel and Administrative Reforms (Per.S) Department, dated 11.03.1987 within the period that stipulated by this Court.

For Petitioner : Mr.H.Velavadhas

For Respondents : Mr.P.Mahendran

Additional Government Pleader

ORDER

The grievances of the writ petitioner is that the order impugned rejecting his claim for grant of Selection Grade and Special Grade from the year 1996 is erroneous. The petitioner seeks revision of pensionary benefits, based on the Government Order issued in G.O.Ms.No.210, dated 11.03.1987.

2.The learned counsel appearing on behalf of the writ petitioner made a submission that during the relevant pint of time, the petitioner was not granted with the Selection Grade and Special Grade as per the Government Order and pay revision was also not granted. Therefore, the said benefit is to be granted. The said amount is to be rectified, now, by granting retrospective Selection Grade/special Grade from the year 1996.

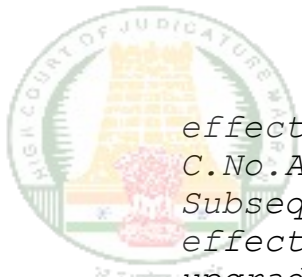
3.At the outset, the grievances of the writ petitioner set out in the writ petition is that the petitioner has not been granted selection grade as Grade-II Police Constable of completion of 10



years and further the pay revision is also denied.

4.The learned Additional Government Pleader appearing on behalf of the respondents relying on the counter affidavit has stated that the benefit of Selection Grade and Special Grade were granted to the writ petitioner by the Government and accordingly, his pay was also revised. However, the petitioner is seeking retrospective benefits during the year 1987 and the said relief cannot be granted now. The facts and circumstances and the grant of relief to the writ petitioner by the respondents are well narrated in paragraph Nos. 4 and 9 of the counter affidavit, which are extracted hereunder:

"4.With regard to the averments made in para.3 of the writ petition, it is submitted that, the petitioner was appointed as Gr.II PC on 05.02.1976. Prior to 27.06.1989, the Govt., had granted the Selection Grade/Special Grade only to a few categories of posts. Gr.III PC post was also one of the posts to which Selection Grade/Special Grade was not provided. Subsequently, the Govt., issued orders in G.O.Ms.No.304, Fin. Dept. dated 28.03.1990 that the scheme of Selection Grade and Special Grade shall be allowed to all the employees, and these orders shall take effect from 27.06.1989. Thus, Gr.III PCs who have put in 10/20 years are eligible for movement to Selection Grade/Special Grade only from 27.06.1989. It is true that he has submitted a representation dated 22.10.2009 to the second respondent to grant Selection Grade GT.II PC pay with effect from 05.02.1986 and as Selection Grade Head Constable pay with effect from 05.02.1996. As per G.O.Ms.No.304, Finance (PC) Dept. dated 28.03.1990, he was given Selection Grade Gr.II PC scale of pay with effect from 27.06.1989. In memorandum Rc.No.193422/NGB.3(1)/92 dated 25.01.1993 of the Director General of Police, Chennai, it has been instructed that the upgradation to the rank of Gr.I PC may be filled in at the ratio of 1:5 between junior promotion and senior promotion (ie) one for junior promotion (SSLC passed) and next five vacancies for senior posts under junior promotion, eligible PCs of Armed Reserve can also be considered as per the existing procedure. While considering upgradation of Gr.II PCs as Gr.I PC for the year 1995-1995, the petitioner and other 16 PCs were not eligible for upgradation (Armed Reserve) under junior promotion due to under qualification (ie - non SSLC holders - VIII to SSLC failed) and not having undergone law training. For consideration for upgradation under senior promotion, he did not reach the seniority. In Director General of Police, Chennai memorandum Rc.No.251200/NGB.III(3)/1994, dated :15.2.1996, 35 posts of Gr.I PCs were additionally allotted to Kanyakumari District with instructions to upgrade them with effect from 01.08.1995. Accordingly, the petitioner was upgraded with



effect from 01.08.1995 as per this office D.O.361/96 in C.No.A1/49114/1995, dated: 10.04.1996 among others. Subsequently, the upgradation as Gt.I PC was revised with effect from 25.07.1995 in order to maintain uniformity in upgradation at state level. Accordingly, on completion of 5 years Gr.I PC service, he was upgraded as Head Constable with effect from 25.07.2000. Thus, promotion or Selection Grade in each category were given to the petitioner as per the Govt. Orders and pay fixation in each category were fixed and benefits have been drawn regularly and paid to the petitioner. His petition dated 22.10.2009 has been considered and endorsement has been given stating that Selection Grade in each category has been given correctly. For consideration of upgradation as SSI, he retired before the competition of 10 years of service in the post of Head Constable. Hence, the writ petitioner is not eligible for upgradation as SSI.

9.With regard to the averments made in para.8 of the writ petition it is submitted that, as per G.O.Ms.No.210, P&AR (Per.5) Dept. dated: 11.03.1987, services in the Selection Grade of the lower post may also be counted for the selection grade in the promoted post, provided that the Selection Grade scale of pay of the lower post is identical to the ordinary grade of the higher post, and this concession be allowed only at the first promotion level. In this case, the petitioner was moved on to the selection grade post of Gt.II PC with effect from 27.06.1989 and he was promoted as Gr.I PC with effect from 25.07.1995. The scale of pay of both these posts are identical. Therefore, he was moved on to selection grade Gr.I PC post with effect from 27.06.1999 (ie the date on which ten years service in the identical scales completed). Accordingly, his pay was also fixed as selection grade Gr.I PC with effect from 27.06.1999 as per the D.O.No.1059/01 of the second respondent. This petitioner has made false information to this Hon'ble Court that he had not been given Selection Grade Gr.I PC as per G.O.Ms.No.210, P&AR (per.5) Dept., dated 11.03.1987."

5.On reading of the facts narrated in the Paragraph Nos.4 and 9 of the counter affidavit reveals that the benefits were already granted to the writ petitioner and the petitioner's grievance with reference to the year 1987 cannot be now considered. In view of the fact that there is a long delay in preferring the matter by the writ petitioner, the writ petitioner filed the writ petition in the year 2010 to dispose of the representation and based on the order passed by this Court on 07.03.2013 in W.P.No.4151 of 201, the impugned order has been passed in proceedings dated 05.05.2014. Thus, the lapsed claim cannot be restored, after a lapse of many years.



6.This Court is of the considered opinion that by filing the writ petition to consider the representation the belated claim cannot be opened for the purpose of re-adjudication and such attitude of the litigants cannot be encouraged by the Court. Every Government Servant is expected to redress their grievances in the manner known to law within a reasonable period of time. Allowing the claim to lapse and after several years, they simply filed the writ petition to consider the representation, based on the said direction and on receipt of the rejection order, again they filed the writ petition by restoring the lapsed cause of action and such being the *modus operandi*, the Court may be cautious to entertain such a writ petition.

7.As far as the present writ petition is concerned, even at the time of filing of the writ petition, the petitioner was aged about 65 years, even before retirement, the benefits were granted and he received all the terminal and pensionary benefits on his retirement. Now, he is claiming the benefit of Selection Grade / Special Grade in the cadre of Grade-II Police Constable. This being the factum established, the relief as such sought for deserve no merits for consideration and accordingly, the writ petition stands dismissed. No costs.

Sd/-

Assistant Registrar (AS)

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Sub Assistant Registrar(CS)

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To

1.The Director General of Police,
Tamil Nadu, Chennai.

2.The Superintendent of Police,
Kanyakumari District,
at Nagercoil.

+1 CC to M/s.GP (SR-23665[F] dated 02/12/2020)

W.P. (MD)No.6613 of 2015

01.12.2020

MR(CO)

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