

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date : 16.02.2021

CORAM:

THE HON'BLE MR. JUSTICE R.SURESH KUMAR

W.P.No.16940 of 2008 and
M.P.No.1 of 2008

M.Ganeshkumar

... Petitioner

Vs.

1. The Director General of Police,
Chennai - 600 004.
 2. The Deputy Inspector General of Police,
Salem Range, Salem.
 3. The Superintendent of Police,
Dharmapuri District Dharmapuri.
- ... Respondents

Prayer: Petition filed under Article 226 of Constitution of India praying for issuance of a Writ of Mandamus directing the respondents herein to consider and give temporary promotion to the petitioner by including his name in the list of persons fit for promotion to the next higher post without reference to the pendency of the Criminal Case in S.C.No.117 of 1996, on the file of the Principal Sessions Judge, Krishnagiri and connected departmental proceedings initiated against the petitioner in proceedings No.77/M.1/97.

For Petitioner : No appearance

For Respondents : Mrs.K.Bhuvaneswari
Additional Government Pleader

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ORDER

The prayer sought for herein is to issue a writ of mandamus directing the respondents herein to consider and give temporary promotion to the petitioner by including his name in the list of persons fit for promotion to the next higher post without reference to the pendency of the Criminal Case in S.C.No.117 of 1996, on the file of the Principal Sessions Judge, Krishnagiri

and connected departmental proceedings initiated against the petitioner in proceedings No.77/M.1/97.

2.The petitioner was working as Grade II Police Constable, at the time of filing of this writ petition, in Dharmapuri. He had been arrayed as Accused No.244 in a Criminal Case pertaining to Vachathi incident in S.C.No.117 of 1996 on the file of the Principal Sessions Judge, Krishnagiri.

3.In view of the said pendency of the criminal case, according to the petitioner, the promotion due even though had come, he was not considered for such promotion.

4.Therefore, at this juncture only, this writ petition was filed by the petitioner with the aforesaid prayer seeking a writ of mandamus to the respondents to consider the candidature of the petitioner for the purpose of promotion, unmindful of the pendency of the criminal case in S.C.No.117 of 1996, as referred to above.

5.When this case was taken up for hearing on 06.01.2021, Mrs.K.Bhuvaneswari, learned Additional Government Pleader appearing for the respondents wanted time to get instruction as to the current stage of the criminal case which was pending and accordingly, it was posted today.

6.Today when the case is called, there is no representation for the petitioner. However, Mrs.K.Bhuvaneswari, learned Additional Government Pleader appearing for the respondents, on instruction, would submit that, in the said criminal case i.e., S.C.No.117 of 1996, the petitioner was convicted for one year imprisonment, as against which, though he filed the appeal, which is pending before the Appellate Court and since it has not been concluded as of now, the petitioner since has been suffered with the conviction/sentence, his request for considering promotion may not arise at this stage.

7.I have considered the said submissions made by the learned Additional Government Pleader appearing for the respondents.

8.In view of the said position, where, in the criminal case, the petitioner was convicted, as against which, even though he filed appeal which is pending before the Appellate Court, it cannot be construed that, the petitioner is clear out of the criminal case and therefore, he cannot seek for any promotion at this juncture, hence the prayer sought for in this writ petition cannot be granted.

9.In view of the above, this Writ Petition fails and it is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

Sgl

To

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

2.The Deputy Inspector General of Police,
Salem Range, Salem.

3.The Superintendent of Police,
Dharmapuri District Dharmapuri.

4.The Principal Sessions Judge,
Krishnagiri.

+1 cc to The Government Pleader, Sr.No. 9179

W.P.No.16940 of 2008

NRL (CO)
RMP (05/03/2021)



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