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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 16.07.2021

PRONOUNCED ON : 06.09.2021

CORAM:

THE HONOURABLE MR. JUSTICE M.S.RAMESH

W.P.No.2211 of 2020

S.Syed Absar

... Petitioner

Vs.

1. The Commissioner of Police,
The Office of City Commissioner,
Chennai City,
Vepery,
Chennai-600 007.
2. The Joint Commissioner of Police,
South Zone,
Saint Thomas Mount,
Chennai-600 016.
3. The Senior Administrative Officer,
South Zone,
Saint Thomas Mount,
Chennai-600 016.
4. The Superintendent of Establishment Section,
South Zone,
Saint Thomas Mount,
Chennai-600 016.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the entire records in Na.Ka.Enn.Pa.Pi2(1)/Dhe.ma/210/13085/2019 by Dhe.Ma.Anai.Enn.190/2020 dated 13.04.2020 passed by the second respondent and to quash the same as illegal and further direct the second respondent to give a promotion to the petitioner as SSI based upon his representation dated 15.06.2020. (Prayer amended vide order dated 06.01.2021 made in WMP.No.21888/2020 in W.P.2211/2020).

For Petitioner : Mr.V.Raghavachari
for Mr.R.Ramesh



For Respondents : Mr.K.V.Sajeev Kumar
Counsel for Government

O R D E R

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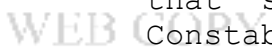
The present Writ Petition is heard through Video Conferencing on 16.07.2021.

2. The petitioner herein was enlisted as a Gr-II Police Constable on 25.10.1993. As per the time bound Up-gradation Scheme, the Grade-II Police Constables, who have put in 10 years of service, were eligible to be upgraded as Grade-I Police Constables and on completion of 5 years of service as Grade-I Police Constables, they could be further upgraded as Head Constables. Thereafter, when the Head Constables complete 10 years of qualifying service without any extraordinary leave and had put in 25 years of total service, would be eligible for up-gradation as Special Sub Inspector of Police (SSI).

3. The petitioner herein was belatedly upgraded as a Grade-I Police Constable on 01.01.2010 and thereafter, as Head Constable on 01.01.2018, in view of certain punishments awarded during the period of his qualifying services. The case of the petitioner is that owing to certain mistakes and wrong calculations made by the respondents in arriving at the total number of days wherein he had suffered the punishment of LWP, his up-gradation to the post of Grade-I Police Constable and Head Constable was belatedly made.

4. According to the learned counsel, the petitioner ought to have been upgraded as a Grade-I Police Constable on 11.05.2004 instead of 01.01.2010 and to the post of Head Constable on 01.08.2009 instead of 01.01.2018. With this submission, the petitioner claims that he is eligible to be promoted to the post of SSI.

5. The learned Government Pleader would submit that owing to the various punishments suffered by the petitioner during the qualifying service period, the petitioner was not entitled for up-gradation to the post of Grade-I Police Constable and Head Constable on the dates claimed by him. It is further submitted that since the petitioner had earned various statutory punishments during his qualifying service, his up-gradation to the post of Gr-I Police Constable have been correctly made and he would be eligible for further upgradation only on 01.01.2028, on which date, he would have completed 10 years of qualifying service in the rank of Head Constable.



7. It is seen from the records produced before this Court, that since the petitioner was inducted as Grade-II Police Constable on 25.10.1993, he would have been eligible for up-gradation to the post of Grade-I Police Constable on completion of 10 years of qualifying service. However, within this 10 years of qualifying service, he had availed extraordinary leave on private affairs for total number of 258 days on various spells between 08.10.1995 and 18.06.2004. In this background, it is seen that though the petitioner had completed 10 years of qualifying service on 10.07.2005, he came to be dealt with charges under Rule 3(b) of the Tamil Nadu Police Subordinate Service (Discipline and Appeal) Rules, 1955 and awarded with the punishment of postponement of next increment for one year without cumulative effect on 18.08.2005. His increment which was due on 01.01.2006 was accordingly postponed for one year and the punishment period was completed only on 24.06.2007. However, during the currency of this punishment, the petitioner had suffered one more punishment of postponement of next increment for 3 years with cumulative effect on 29.05.2006, which punishment had completed only on 31.12.2009. As per the proceedings of the Director General of Police dated 12.08.2005, the up-gradation shall be made after one year from completion of the punishment which the incumbent is undergoing on the crucial date for consideration for promotion. Since the petitioner would be eligible for up-gradation after completion of punishment, he was eligible for up-gradation as Grade-I Police Constable only on 01.01.2010, which up-gradation was also given to the petitioner. In this factual scenario, I do not find any mistake committed by the respondents in upgrading the petitioner to the post of Grade-I Police Constable with effect from 01.01.2010.

9. From the aforesaid discussions, this Court is of the affirmed view that the petitioner's candidature for up-gradation



to both the post of Grade-I Police Constable, as well as, Head Constable was not given on completion of 10 years and 5 years of his qualifying services owing to the pendency of the disciplinary proceedings and various punishments suffered by him. It is not in dispute that the pendency of such disciplinary action or the currency of the punishment, on the crucial date for consideration for up-gradation, will be a disqualification for favourable consideration. Thus, I do not find any infirmity in the up-gradations granted to the petitioner to the post of Grade-I Police Constable with effect from 01.01.2010 and to the post of Head Constable with effect from 01.01.2018.

10. If that be so, the petitioner would be entitled for further up-gradation to the post of SSI on completion of 10 years of qualifying service in the rank of Head Constable. By taking into account that the petitioner was upgraded as a Head Constable on 01.01.2018, his eligibility for such an up-gradation as an SSI would fall only on 01.01.2028, subject to any other pending departmental action or punishment, which he is, or may in future, undergo during the crucial period of his service. As such, the petitioner's prayer in the present Writ Petition seeking for promotion to the post of SSI, before attaining the crucial date, cannot be sustained.

11. In the result, I do not find any merits in the Writ Petition. Accordingly, the Writ Petition stands dismissed. There shall be no orders as to costs.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

DP

To

1. The Commissioner of Police,
The Office of City Commissioner,
Chennai City,
Vepery,
Chennai-600 007.
2. The Joint Commissioner of Police,
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Saint Thomas Mount,
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3. The Senior Administrative Officer,
South Zone,
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4. The Superintendent of Establishment Section,
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+1CC to Mr.R.Ramesh, Advocate, Sr.No.44834

W.P.No.2211 of 2020

SV-1 (CO)
K.RK. (20.09.2021)