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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.07.2021

CORAM

THE HONOURABLE MR. JUSTICE M.GOVINDARAJ

W.P.No.21297 of 2010
and M.P.No.1 of 2010

M.Krishnan

... Petitioner

Vs.

1.The Director General of Police,
Mylapore, Chennai 4

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

3.The Superintendent of Police,
Dharmapuri District

... Respondents

PRAYER: The Writ Petition has been filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records of the third respondent in connection with the impugned order passed by him in D.O.No.614/2009 in Na.Ka.No.A2/15000/2008 dated 18.06.2009 and Na.Ka.No.A2/9790/2010 dated 12.05.2010 and quash the same and direct the respondents herein to consider the case of the petitioner for promotion as Grade I Police Constable with effect from 13.05.1986 and as Head Constable with effect from 13.05.1991 and to promote him as such with all consequential service and monetary benefits including pensionary benefits within a limited time.

For Petitioner :Mr.S.Balakrishnan for
Mr.S.Ravi

For Respondents: Mr.C.Selvaraj
Government Advocate (Civil)

O R D E R

The petitioner was appointed as Grade-II Police Constable on 13.05.1976. As per the extant Government Order, persons completed 10 years of service should be upgraded as Grade-I Police Constable and after completion of five more years should be promoted as Head Constable. The petitioner had completed 10



years of service on 12.05.1986. However, he was upgraded as Grade-I Constable only on 18.08.1994. Thereafter, vide proceedings C.No.13425/A1/98 District Police Officer, Dharmapuri dated 23.04.1998, he was promoted as Head Constable on regular basis in the existing vacancy.

2. It appears that the Director General of Police passed an order to regularise the services of the Head Constables, on completion of five years in the post of Grade-I Police Constable, as per the Rules. Since the petitioner was upgraded as Grade-I Constable only on 18.08.1994, on completion of 5 years, he was regularized as Head Constable with effect from 18.08.1999. It is stated that in order to bring uniformity in the date of promotion was fixed as 18.08.1999 instead of 22.04.1998. It is trite that upgradation is given to servants in consideration of stagnation in the same post without promotion. In the category of Constables, 10 years of service is considered for upgradation. Completion of 10 years of service will entitle them for upgradation. By upgrading the post, the Government servant will get higher pay and will not get actual promotion. If he gets actual promotion on the basis of his seniority, upgradation is unnecessary and need not be given.

3. If at all the first respondent is to regularize the services of the petitioner, it should be regularized with effect from the date of his initial appointment. He entered into service on 13.05.1976. As per the Government Orders, he should have been upgraded as Grade-I Police Constable on 13.05.1986. Without upgrading him after completion of 10 years, the respondents have passed orders only on 18.08.1994. There is no reason recorded for the delayed upgradation. It is also to be noted that the petitioner also has not challenged the delayed upgradation. Be that as it may, once a regular promotion was given after a period of eight years as Grade-I Constable and after a period of 12 years as Head Constable, it is not correct to regularize the date of appointment with effect from a future date.

4. When a person is regularly promoted against the substantive vacancy, he shall be regularized from the date of his regular promotion and not from a future date on the basis of a letter issued by the Head of the Department. Therefore, the impugned order in proceedings in Na.Ka.No.A2/15000/2008 dated 18.06.2009 is set aside as arbitrary and illegal and the respondents are directed to consider the promotion of the petitioner, regularize the service of the petitioner as Head Constable with effect from the date of his regular promotion viz., 22.04.1998 and pass appropriate orders.



5. The writ petitioner stands allowed accordingly. No costs. Consequently connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-IV)

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//True Copy//

Sub Assistant Registrar

RR

To

1.The Director General of Police,
Mylapore, Chennai 4

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

3.The Superintendent of Police,
Dharmapuri District.

+1cc to Mr.M.Ravi, Advocate, S.R.No.36408

+1cc to the Government Pleader, S.R.No.36572

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and M.P.No.1 of 2010

PMK(CO)

CB(17/09/2021)