



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 09.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.7826 of 2009

R.P.Ilango

... Petitioner

Vs.

1.The Secretary to Government,
Home (Police V) Department,
Fort St George, Chennai 9.

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

... Respondents

Prayer: Writ petition filed under Section 226 of the Constitution of India seeking to issue a Writ of Certiorarified Mandamus, to call for the records of the 1st respondent in connection with the impugned order passed by him in Letter No.88969/Pol-3/2005-7 dated 22.12.2006 and Letter No.43055/Pol.V/2008/3 dated 20.01.2009 and quash the same and direct the respondents to repatriate the petitioner to category III by restoring his original seniority and grant him all consequential service and monetary benefits at par with his juniors and grant such relief.

For Petitioner : Mr.M.Muthappan

For Respondents : Mr.P.Ananda Kumar
Government Advocate, R1 & R2

ORDER

This writ petition has been filed seeking to issue a Writ of Certiorarified Mandamus to quash the impugned order passed by the first respondent in Letter No.88969/Pol-3/2005-7 dated 22.12.2006 and Letter No.43055/Pol.V/2008/3 dated 20.01.2009 and direct the respondents to repatriate the petitioner to category III by restoring his original seniority and grant him all consequential service and monetary benefits at par with his juniors and grant such relief.



2. The case of the petitioner in brief:

The petitioner has entered into service as a directly recruited Sub Inspector of Police in Category-III on 28.09.197 and then promoted as Inspector of Police in Category-III on 08.08.1990. While he was serving in Special Security Group as Inspector of Police during the year 1994, he was deputed for pre-induction training (conversion course from category-III and II to Category-I) for six months in the Police Training College, Chennai and three months practical training. Thereafter, he joined the Special Security Group and continued to work as Inspector of Police till the Special Security Group was reorganized. At the time of filing writ petition he was working as Inspector of police, T.N.Commando Force, from the date of its formation.

2.1. All the Sub Inspectors in Category-III and II, who have completed the conversion course along with the petitioner, have joined Taluk Police. The petitioner has never expressed his willingness to work in the Taluk Police and he continue to serve in the Commando Force. Though he was posted as Sub Inspector of Police, Salem after the conversion course, no order, relieving the petitioner from Tamil Nadu Commando Force, was issued. The petitioner was awarded accelerated promotion as Inspector of Police from Sub Inspector of Police, as per G.O.Ms.No.468 dated 19.03.1996, since he won gold medal in pistol shooting, in the All India Shooting Competition in the year 1996, held on 02.04.1996 and the effectiveness of his promotion date back to 03.09.1998. According to the petitioner, when the government order was passed, giving promotion to the post of Inspector of Police, he was already serving as Inspector of Police, Category-III, in TNCF and not as Taluk Sub-Inspector of Police. Hence, he should have been given accelerated promotion from the date of his winning the medals with effect from 02.04.1996 as Deputy Superintendent.

2.2. The petitioner has won 4 gold medals in the years 1996, 1999, 2004 and 2005 and 1 bronze medal in 2007, apart from winning many gold medals in State Level. The petitioner has made a representation to the Government on 24.11.2004, stating that at no point of time, he had relinquished his lien from Tamil Nadu Special Police (TSP) and requested to revert him back to his parent unit (TSP, as Inspector of Police, Category-III from 08.08.1990 with his original seniority. The Government vide letter dated 22.12.2006, had rejected the claim of the petitioner and that order was issued by the respondent to the petitioner only on 08.05.2007. In the impugned order, it is stated that the petitioner is not eligible for repatriation to the TSP, as per the provisions contained in FR14(b). But, the above Rule cannot be made applicable to the petitioner on the sole ground that the petitioner has never worked in Category-I



Taluk Police, even after completion of the conversion course and the corresponding training, since he had been serving in Special Security Group and then in the Commando Force. The petitioner's batch mates, who were recruited along with him during the year 1987, have granted promotion, even as per seniority and they are serving as Commandant in Category-III. The petitioner's juniors by name Anthony Johnson Jayapaul, Eawaran Sekar, paulraj, ampathraj, Rajaram and Abdul Gani are serving as Commandant, Category-III, but the petitioner has not been given due recognition for his sports activities and denied accelerated promotion even after winning 4 gold and 1 bronze medals in the all India Shooting Competition. The petitioner never served in Taluk Police as Sub Inspector and has not given his willingness to serve in the Taluk Police, even after undergoing the condensed course for conversion. The petitioner has expressed his willingness to go back to T.N.Special Police on the ground that atleast he will get his promotion in Category-III, on par with his juniors. The reason mentioned that the petitioner has made his representation relinquishing his right in Category-I, after a period of 3 years cannot be sustained on the sole ground that the petitioner's appeal for accelerated promotion as Deputy Superintendent of Police, Category-I and another petition for reverting him back to Category-III as Inspector from 08.08.1990 with restoring his original seniority is pending before the Government. Hence the writ petition.

3. The brief contentions of the counter affidavit filed by the respondents, as follows:

The petitioner was originally recruited as Sub Inspector of Police in Tamil Nadu Special Police on 28.09.1987 and promoted as Inspector of Police in TSP on 08.09.1990 and he was transferred on OD basis to Commando Force. Later, as per his willingness, he was converted from Category III to Category I (i.e. TSP to Taluk Police) as sub Inspector of Police on forgoing seniority. Later, he was promoted as Inspector of Police (Taluk Police) with effect from 03.09.1998. Accordingly, he was posted to Taluk Police and given placement in the seniority list reckoning the date of promotion as Inspector of Police (Taluk Police) as 03.09.1998, as per the Government Order 2(D) No.292 dated 22.12.1998, by relaxing to Rule 39 of the Special Rules for Tamil Nadu Police Subordinate Service. As per Taluk Police Seniority, the petitioner was promoted as Deputy Superintendent of Police (Taluk Police) with effect from 02.07.2010.

3.1. The petitioner got transfer to Commando Force on OD basis on 07.09.1992 from TSP and he is serving in the same borrowing unit without prejudice to having been converted to the converted category. If he had given option to work to Law and Order duties, he would have been posted to Inspector in Taluk



police stations. But, he has not given any willingness for working in Law and Order. The names mentioned by the petitioner viz., Tr.Gunasekaran, Tr.Anthony Johnson Jayapaul, Tr.Eawarn, T.Sekar, Tr.Paulraj, Tr.S.Rajaram and Tr.Abdul Gani were recruited as Category-I at TSP and are continuously serving in TSP and also got promotion as Inspector, AC, DC and Commandant in Tamil Nadu Special Police Battalion-Category II. But the petitioner was recruited in TSP in 1987 and later had given willingness to convert to Taluk police. As per Taluk Police seniority, he was promoted as Deputy Superintendent of Police Category-I. Therefore, the contention of the petitioner that he was promoted as Inspector in TSP is far from truth. Only on his willingness, the petitioner underwent pre-induction course training for local police. After completion of more than 10 years in local police, now the petitioner is not eligible for change of his lien under FR.14(b). Further, for transfer from one service to another service, after more than three years, there is no rule or provision in force. Hence, the petition is liable to be dismissed.

4. Heard the rival submissions made by the learned counsels appearing for both sides and I have perused the materials on record.

5. From the submissions made by the learned counsel appearing for the respondents, it is clear that the petitioner, on his own willingness only, was converted from the service of Tamil Nadu Special Police Service to the service of Tamil Nadu Police Service and accordingly, posted as Sub Inspector of Police-Category-I, Taluk Police. The petitioner has been placed in the appropriate place in the seniority list for further promotion to the post of Inspector of Police (Category-I), as per G.O.Ms.No.1205 dated 03.09.1998. Thereafter, petitioner's name was considered for promotion to the post of Deputy Superintendent of Police, based on the seniority list prepared on Category-I Taluk Police and was also promoted as Deputy Superintendent of Police (Category-I), as per G.O.Ms.No.598 dated 02.07.2010.. After continuing service for more than 10 years in the service of Taluk Police-Category-I, the petitioner has made request to convert his service from Taluk Police-Category-I to TSP- Category-III and restore his original seniority, which is unacceptable. There is a force in the contention of the learned counsel for the respondents that there is no Rule or Provision in the Tamil Nadu Police Subordinate Rules for seeking such conversion from one service to another service after more than 10 years. It is further contended by the respondents that as per F.R.56 and 23, if any request for conversion from one service to another service, the same shall be, within three years and hence, there is no provision to consider the claim of the petitioner, after such belated period.



It is pertinent to note that, the statements made in the counter affidavit, have not been denied by the petitioner in the reply statement. The respondents have also placed the relevant page of Service Register of the petitioner, as well as the order dated 06.07.2010 and the proceedings dated 03.08.2010. As per the order dated 06.07.2010, the petitioner was Promoted from Inspector of Police, TNCF/CS to the post of Deputy Superintendent of Police (Category-I) and posted to 'Q' Branch, CID, Kancheepuram. Further the proceedings dated 03.08.2010 shows that that the petitioner was transferred from 'Q' Branch, CID, Kancheepuram District and posted to TNCS, Chennai District as Deputy Superintendent of Police. Therefore, the contention of the petitioner that he is continuously serving in the Tamil Nadu Special Police- Category-III and not in the Tamil Nadu Police Service(Category-I), is not accepted, since it is baseless and without any material. Therefore, the claim of the petitioner is liable to be rejected.

6. Accordingly, this writ petition is dismissed. No costs.

Sd/-

Assistant Registrar(CS-V)

//True copy//

Sub Assistant Registrar

mst

To

1.The Secretary to Government,
Home (Police V) Department,
Fort St George, Chennai 9.

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

+1cc to Mr.M.Muthappan, Advocate SR.No.65580

+1cc to Government Pleader SR.No.66163

W.P.No.7826 of 2009

PL(CO)
GMY(17/02/2022)