

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date : 23.02.2021

CORAM:

THE HON'BLE MR. JUSTICE R.SURESH KUMAR

W.P.No.8278 of 2010 and
W.M.P.No.29202 of 2019

T.Gnanamuthu

... Petitioner

Vs.

- 1.The Director General of Police,
Santhome High Road,
Madras - 600 004.
- 2.The Deputy Inspector General of Police,
Coimbatore Range,
Coimbatore - 18.
- 3.The Superintendent of Police,
Coimbatore District,
Coimbatore.
- 4.The Superintendent of Police,
Tiruppur District,
Tiruppur.

... Respondents

Prayer: Petition filed under Article 226 of Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the entire records pertaining to D.P.231/2010, C.No.J3/ AP 17/35378/09 dated 24.02.2010 on the file of the 3rd respondent and quash the same as illegal, incompetent and without jurisdiction and consequently directing the respondents herein to promote the petitioner as Grade I Police Constable with effect from 14.04.1993 and as Head Constable from 27.01.1998 and as Special Sub-Inspector of Police with effect from 01.06.2008 with all monetary benefits.

For Petitioner : Mr.S.Sivakumar
For Mr.M.P.Thangavel

For Respondents: Mrs.K.Bhuvaneswari
Additional Government Pleader

ORDER

The prayer sought for herein is for a writ of certiorarified mandamus to call for the entire records pertaining to D.P.231/2010, C.No.J3/AP17/ 35378/09 dated 24.02.2010 on the file of the 3rd respondent and quash the same as illegal, incompetent and without jurisdiction and consequentially directing the respondents herein to promote the petitioner as Grade I Police Constable with effect from 14.04.1993 and as Head Constable from 27.01.1998 and as Special Sub-Inspector of Police with effect from 01.06.2008 with all monetary benefits.

2.The petitioner was working as Grade II Police Constable at the respondent Department with effect from 22.01.1975. Subsequently, he got promoted as Grade I Police Constable with effect from 14.04.1993 and as Head Constable with effect from 27.01.1998 and subsequently, he was promoted as Special Sub Inspector of Police in the year 2010 and attained superannuation in the year 2012. However, when he was working, there has been a disciplinary proceedings atleast in three separate charges by way of three separate proceedings and all three charges were ended in punishment. However, subsequently, insofar as the two disciplinary proceedings, it has been dropped and in respect of one proceeding, the punishment awarded against the petitioner has been modified to the modified punishment of stoppage of increment for two stages for one year without cumulative effect.

3.The said punishment has become final, as against which, no appeal was filed and in fact, the punishment has been implemented by virtue of such implementation, it impacted his pay benefits that is why a consequential order has been passed on 24.02.2010 by the third respondent, whereby, the pay of the petitioner was regularised consequent on the modification of the punishment orders issued.

4.Challenging the said order passed by the third respondent dated 24.01.2010 regularising the pay of the petitioner by implementing the modified punishment, as stated supra, the present writ petition has been filed.

5.Heard Mr.S.Sivakumar, learned counsel appearing for the petitioner, who after making submissions for some time, has made a fair submission that, insofar as the implementation of the modified punishment of stoppage of increment in two stages for one year without cumulative effect is concerned, since the said modified punishment has become final and if that is implemented which had impacted in the pay scale of the petitioner that is reflected in the impugned order dated 24.01.2010 is concerned, the petitioner does not have any grievance. However, the petitioner is having grievance with regard to the further

promotional avenues, which was also, on consideration, the petitioner had not been given or considered for further promotion, in view of the implementation of the punishment and therefore, in order to get the promotion, which has become due, it should have been given to the petitioner, otherwise, the petitioner will have a grievance. Therefore, if that grievance is redressed by the respondents, the petitioner would be satisfied.

6.I have heard Mrs.K.Bhuvaneswari, learned Additional Government Pleader appearing for the respondents, who would submit that, though initially there were three punishments or three proceedings initiated against the petitioner, two were dropped and in respect of one, even though punishment was initially imposed, that was subsequently modified as stated supra and when the modified punishment was implemented, ultimately whatever pay fixation of the petitioner, that has been regularised by the respondents, through the impugned order dated 24.02.2010. Therefore, as against which, the petitioner cannot have any grievance, as has been rightly pointed out by the learned counsel appearing for the petitioner. Therefore, the impugned order would be sustainable and hence, the writ petition is liable to be rejected, he contended.

7.I have heard the learned counsel for the parties and have perused the materials placed before this Court.

8.Insofar as the impact of the impugned order is concerned, as submitted by the learned counsel appearing for both sides, this Court finds that, there is no infirmity in passing such order as it has become inevitable to regularise the pay scale, if the modified punishment awarded against the petitioner is implemented, that has been exactly done by the third respondent through the said order impugned. Therefore, it cannot be found fault with and accordingly, the impugned order is to be sustained.

9.However, the petitioner with regard to his promotional avenue though has superannuated subsequently in the year 2012, while he was in service, he filed this writ petition to consider a representation dated 22.03.2010 and it seems that, the said representation has not so far been considered and therefore, if the said representation is directed to be considered, that will suffice for the petitioner to redress his grievance as of now. Accordingly, this Court is inclined to dispose of this writ petition with the following orders.

(i) That the impugned order is sustained, therefore, it does not warrant any interference.

(ii) The respondents especially the second respondent i.e., Deputy Inspector General of Police,

Coimbatore Range is hereby directed to consider the representation of the petitioner dated 22.03.2010 and pass orders thereon on merits and in accordance with law within a period of two months from the date of receipt of a copy of this order.

(iii) The petitioner is hereby directed to send a copy of this order along with the copy of the said representation dated 22.03.2010 within two weeks from the date of receipt of a copy of this order and on receipt of the same, let the needful as indicated above shall be undertaken by the second respondent within the time frame set out therein.

10. With these directions, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

Sgl
To

1. The Director General of Police,
Santhome High Road,
Madras - 600 004.
2. The Deputy Inspector General of Police,
Coimbatore Range, Coimbatore - 18.
3. The Superintendent of Police,
Coimbatore District, Coimbatore.
4. The Superintendent of Police,
Tiruppur District, Tiruppur.

+1 CC to Mr. Ma. P. Thangavel, Advocate sr 10956.
+1 CC to The Government Pleader sr 11269.

W.P.No.8278 of 2010

AAB (CO)
SP(16/03/2021)