

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 09.03.2021

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THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.5789 of 2021
(Heard through VC)

E.Sivakumar

.. Petitioner

-vs-

The Deputy Inspector General of Police,
Kanchipuram Range,
Kanchipuram - 631 501.

.. Respondent

Prayer: Petition filed under Article 226 of Constitution of India to issue a Writ of Mandamus directing the respondent herein to consider and pass orders on petitioner's representation dated 06.01.2021 given to promote as Head Constable with effect from 22.09.1989 and as Sub Inspector of Police with effect from 15.03.2005 on par with batch-mate.

For Petitioner : Mr.Ravi Shanmugam

For Respondents: Mr.J.Pothiraj
Special Government Pleader

O R D E R

The writ petition has been filed seeking a direction to the respondent herein to consider and pass orders on petitioner's representation dated 06.01.2021 seeking to promote him as Head Constable with effect from 22.09.1989 and as Sub Inspector of Police with effect from 15.03.2005 on par with his batch-mate.

2. Mr.J.Pothiraj, learned Special Government Pleader takes notice on behalf of the respondents.

3. By consent of both parties, the writ petition is taken up for final disposal at the admission stage itself.

4. The facts of the case is that the petitioner joined the Police services as Grade II Police Constable on 23.12.1985. He was further promoted as Naik on 22.09.1989 and as Head Constable on 08.01.1998. He was granted regular promotion as Sub Inspector

of Police on 15.12.2014. He filed a writ petition in W.P.No.13979 of 2018 seeking to grant him retrospective promotion as Head Constable on par with his batch-mates and the same was allowed. It is stated that the Government in G.O.Ms.No.66, Home (Police V) Department dated 30.01.2020 had ordered relaxing the special rules in his favour so as to revise his seniority in the rank of Head Constable retrospectively from 22.09.1989 on par with his batchmate Thiru.Mani, Sub Inspector of Police. Further it is stated that vide proceedings dated 20.05.2020, a proposal has been sent from the Superintendent of Police, Kanchipuram District to the Deputy Inspector General of Police, Kanchipuram Range for implementation of High Court order in W.P.No.13979 of 2018 and G.O.Ms.No.66 Home (Police V) Department dated 30.01.2020. Since there was no progress, he made a representation dated 06.01.2021 to the respondent. But, till now, no orders have been passed by the respondent. Hence, the petitioner is before this Court.

5. Considering the facts and circumstances of the case and taking into account the fact that the petitioner's representation is already pending with the respondent, the writ petition is disposed of with the following directions:

i) A direction is issued to the respondent herein to consider the representation submitted by the petitioner dated 06.01.2021, if not already disposed of, and pass appropriate orders thereon, in accordance with law, after affording an opportunity of hearing to the petitioner and other persons, if any, who are likely to be affected, as expeditiously as possible, preferably within a period of 90 days from the date of receipt of a copy of this order.

ii) In case the petitioner is unable to appear for personal hearing, the petitioner is entitled to send a written submission within a period of one month from the date of receipt of a copy of this order through registered post or speed post and the same shall be treated as personal hearing. It is made clear that the petitioner can avail the opportunity of either personal hearing or filing written submission and not both;

iii) In case the petitioner fails to appear or file a written submission in time, the respondent shall pass orders based on the available records and the petitioner, cannot at a later point of time take a stand that opportunity of being heard is not given to the petitioner;

iv) The petitioner shall furnish Mobile Number, email ID, if any, etc., along with a copy of the representation dated 06.01.2021 and this order, to the respondent forthwith;

v) The respondent is directed to communicate the decision taken on the representation, to the petitioner within a period of three weeks from the date of decision taken thereon, by way of SMS/Email/registered post/speed post, so that there is no need for the petitioner to file contempt after expiry of the specified period. In case the authorities concerned fail to send communication to the petitioner, they will have to face the civil imprisonment in case of contempt proceedings. If they are unable to serve the order and the cover being returned un-served for one reason or the other, the same shall be kept in the file without opening it for the proof of delivery, so that the petitioner, later on, will not take a plea that the petitioner is not aware of the order. No costs.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

The Deputy Inspector General of Police,
Kanchipuram Range,
Kanchipuram - 631 501.

+1 CC to The Government Pleader sr 15198.

W.P.No.5789 of 2021

RR(CO)
SP(20/05/2021)

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