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W.A.(MD) No.909 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.04.2021

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.A. (MD) No.909 of 2020

and C.M.P. (MD) No.4949 of 2020

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

2.The Superintendent of Police  
Kanyakumari District, Nagercoil ... Appellants/Respondents

-vs-

C.Aruldas ... Respondent/Petitioner

Writ Appeal filed under Clause 15 of Letters Patent to set aside the order, dated 17.02.2020, passed in W.P.(MD) No.1398 of 2015, on the file of this Court.

Prayer in WP(MD). 1398 of 2015 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorarified Mandamus calling for the records relating to the proceedings of the second respondent vide Na.Ka.No.A1/53638/2014 dated 18.11.2014, quash the same and consequently direct the respondents to promote the petitioner as Special Sub Inspector of Police with effect from 17.11.2013, dated of his eligibility and to pay all the monetary and service benefits to him with interest.

For Appellants : Mr.K.P.Krishnadass  
Special Government Pleader  
For Respondent : Mr.C.Kishore

### J U D G M E N T

**[Judgment of the Court was made by T.S.SIVAGNANAM, J.]**

This writ appeal by the Director General of Police and another, respondents in W.P.(MD) No.1398 of 2015, is directed against the order dated 17.02.2020 passed in the said writ petition, by which, the learned Single Bench directed the respondent / writ petitioner to be promoted to the post of Special Sub Inspector of Police with effect from 17.11.2013. This direction was based on the finding rendered by the learned Writ Court in Paragraph No.7 to the effect that on the crucial date for promotion i.e. one year from 17.11.2013, there was no punishment awarded against the respondent / writ petitioner.



2. After elaborately hearing Mr.K.P.Krishnadass, learned Special Government Pleader appearing for the appellants and Mr.C.Kishore, learned counsel appearing for the respondent / writ petitioner and carefully perusing the material papers placed before us, we find that the learned Writ Court has committed a factual mistake, which led to the filing of this appeal. We say so, because the respondent / writ petitioner has suffered two punishments in his career at the relevant time. The first punishment was postponment of increment for three years without cumulative effect vide P.R.No.86 of 2000, dated 07.08.2000 and consequently, he could not be considered for promotion for a period of five years as it would fell within the check period. The second punishment suffered by the respondent / writ petitioner was postponment of increment for a period of one year, which shall not operate to postpone his future increments vide P.R.No.57 of 2011, dated 08.02.2012. On the crucial date for being considered for upgradation as Special Sub Inspector of Police, the punishment was in currency. Rather, to put it slightly different, the second punishment fell within the check period of five years and taking note of the date of delinquency i.e. 24.11.2010, the respondent / writ petitioner would become eligible for being considered only in the year 2015. This position is clear from the amendment which has been made to Rule 4(a) of the General Rules for the Tamil Nadu State and Subordinate Services vide G.O.Ms.No.22, Personnel and Administrative Reforms (S) Department, dated 24.02.2014. Therefore, the respondent / writ petitioner would be eligible to be considered for upgradation as Special Sub Inspector of Police with effect from 01.12.2015 and not earlier.

3. For the above reasons, the writ appeal is allowed and the directions issued in the impugned order dated 17.02.2020 in W.P.(MD) No.1398 of 2015 are set aside. Since till date the respondent / writ petitioner has not been considered for upgradation as Special Sub Inspector of Police, we direct the appellants to consider his case for upgradation as Special Sub Inspector of Police with effect from 01.12.2015, if he is found to be otherwise eligible. This direction be complied with within a period of six weeks from the date of receipt of a copy of this Judgment. No costs. Consequently, connected miscellaneous petition is closed.

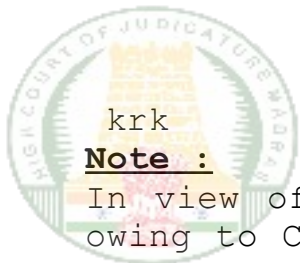
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Assistant Registrar(CS-III)

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/ /2021

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**Note :**

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+1 CC to M/s.SPL GP ( SR-15847[F] dated 15/04/2021 )

+1 CC to M/s.C.KISHORE, Advocate ( SR-15915[F] dated 15/04/2021 )

**W.A. (MD) No.909 of 2020**

**and**

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**09.04.2021**

MJ(CO)

TR(07.05.2021) 3P 3C