



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.02.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P. (MD)No.5783 of 2018

(Through Video Conference)

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Mrs.Sutha

... Petitioner

Vs

1.The Director General of Police,
O/o. The Director General of Police,
State of Tamil Nadu,
Chennai - 4.

2.The Deputy Inspector General,
Tirunelveli Region,
Tirunelveli.

3.The Superintendent of Police,
Tirunelveli District,
Tirunelveli.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records relating the impugned order passed by the 1st respondent, dated 19.02.2018, in Rc.No.130435/NGB-1(1)/2016, r/w the impugned order passed by the 3rd respondent vide C.No.A1/27035/2016, dated 15.09.2016, r/w the impugned order passed by the 2nd respondent, vide C.No.A1/11544/2016, dated 09.08.2016, and quash the same and consequently direct the respondents to promote the petitioner for the post of Inspector of Police in par with the petitioner's Juniors in the promotional panel for the year 2016-2017 with all consequential benefits.

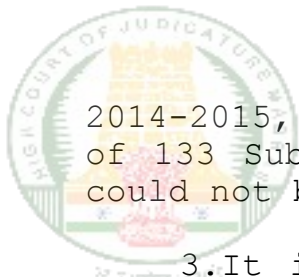
For Petitioner : Mr.Venkataramani Senior Counsel
for M/s.T.Antony Arul Raj

For Respondents : Mr.S.Dhayalan
Government Advocate

O R D E R

Heard Mr.Venkataramani, learned Senior Counsel appearing for the petitioner and Mr.S.Dayalan, learned Government Advocate, appearing for the respondents.

2.The petitioner was appointed as a Woman Sub Inspector on 15.09.2004. Since she was found to fit for consideration in the promotion panel to the post of Inspector of Police for the year



2014-2015, her name was included therein. In view of the promotion of 133 Sub Inspector of Police alone in the final, the petitioner could not be promoted under that promotion panel.

3.It is stated that the petitioner was involved in a criminal case in Cr.No.43 of 2016, on the file of the Ambasamudram Police Station, which was registered on 05.01.2016. The petition seeking to quash the above criminal case before this Court in CrI.O.P.(MD). No.4640 of 2016, was withdrawn by the petitioner on 09.09.2016.

4.The case of the petitioner is that she is entitled to be included in the promotion panel for the year 2016-2017 and consequently promoted, since the charge sheet pertaining to the criminal case was filed only on 21.11.2017.

5.The learned Senior Counsel for the petitioner would submit that the crucial period for the promotion panel for the year 2016-2017 was 01.06.2016 and the date of consideration was on 30.08.2016. Since the Charge sheet was filed on 21.11.2017, there was no bar for inclusion of her name in the approved list, since the charge sheet in the criminal case against the petitioner was not filed during the date of consideration.

6.The learned Additional Government Pleader placed reliance on the averments made in the counter affidavit and submitted that since the petitioner was facing criminal charges, she is not entitled to seek for promotion for the year 2016-2017.

7.As pointed out above, the crucial period for inclusion of the petitioner's name for the panel for the year 2016-2017 was 01.06.2016 and the date of consideration for promotion was 30.08.2016. Admittedly, the charge sheet in the criminal case in Cr.No.43 of 2016 against the petitioner was filed on 21.11.2017.

8.Under the Tamil Nadu Government Servants (Conditions of Service) Act, 2016, Schedule IX, Part A(II), the mere pendency of a criminal case against the members of the Police Department will not be a bar for inclusion of their names in the approved list, in the absence of a charge sheet being filed during the crucial period. The relevant regulations reads as follows:

"Consideration of members for inclusion in the approved list. In case where enquiry (except Tribunal for Disciplinary proceeding enquiry) including preliminary or detailed enquiry by the appropriate Investigating Authority is pending against a member of service and no specific charges have been framed, promoted or appointment of such member of service shall be considered on the basis of the merits revealed through Annual Confidential Reports, Record Sheets and



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Punishments imposed. In cases where specific charges have been framed or charge sheet has been filed in criminal case against a member of service, promotion or appointment of such member of service shall be deferred till such proceedings are concluded. On exoneration or acquittal from the charges, a member of service shall be considered for promotion or appointment with retrospective effect from the date on which his immediate junior was promoted, if he is otherwise qualified for such promotion.

Mere filing of cases in Courts by the appropriate Investigating Authority against a member of service shall not be a bar for inclusion of his name in the approved list. If specific charges are framed or charge sheet has been filed in the criminal case on the crucial date his name shall not be considered for inclusion in the approved list."

9.Apparently, the charge sheet was not filed at the time of the consideration i.e., as on 30.08.2016 and by applying the aforesaid Rule, it could be said that there was no bar for inclusion of the petitioner in the approved panel list for the year 2016-2017.

10.In this background, the impugned order rejecting the petitioner's request for inclusion of her name in the promotion panel for the year 2016-2017 cannot be sustained. In the above circumstances, the impugned order passed by the 1st respondent, dated 19.02.2018, in Rc.No.130435/NGB-1(1)/2016 stands quashed. Consequently, there shall be a direction to the respondents herein to consider the petitioner's candidature for the promotion to the post of Inspector of Police for the promotion panel of the year 2016-2017 and place her on par with her immediate juniors. The respondents shall endeavour to complete such consideration atleast within a period of four weeks from the date of receipt of a copy of this order.

11.This writ petition stands allowed, accordingly. No costs.

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)



Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate / litigant concerned.

To:

1.The Director General of Police,
O/o. The Director General of Police,
State of Tamil Nadu,
Chennai - 4.

2.The Deputy Inspector General,
Tirunelveli Region,
Tirunelveli.

3.The Superintendent of Police,
Tirunelveli District,
Tirunelveli.

+1 CC to SPL GP (SR-7807[F] dated 01/03/2021)

+1 CC to Mr.T.ANTONY ARUL RAJ, Advocate (SR-8061[F] dated 02/03/2021)

Order made in
W.P. (MD)No.5783 of 2018
26.02.2021

VB (16.03.2021) 4P 6C