



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.10.2021

CORAM

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**

W.P.(MD).No.20182 of 2014

A.Selvarajan

...Petitioner

Vs.

1.The Commissioner of Police,
Tirunelveli City,
Tirunelveli, Tirunelveli District.

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

3.The Principal Secretary to Government,
Home Department,
Secretariat, Chennai - 9.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the proceedings of the first respondent in RC.No.K3/Appeal-46/2011-C.P.O.No.710/2014 dated 04.06.2014 and to quash the same and consequently to direct the respondents herein to upgrade the petitioner as Head Constable and Special Sub Inspector of Police with effect from 01.06.2003 and 01.06.2013 respectively and grant all consequential service and monetary benefits.

For Petitioner
For Respondents

:Mr.S.Mahalingam
:Mr.R.Suresh Kumar
Government Advocate

O R D E R

This Writ Petition is filed for the issuance of a Writ of Certiorarified Mandamus, to quash the impugned proceedings of the first respondent, dated 04.06.2014 and consequently to direct the respondents to upgrade the petitioner as Head Constable and Special Sub Inspector of Police with effect from 01.06.2003 and 01.06.2013 respectively and to grant other monetary benefits accordingly.

2.Heard Mr.S.Mahalingam, learned Counsel appearing for the petitioner and Mr.R.Suresh Kumar, learned Government Advocate appearing for the respondents.

3.The petitioner was appointed as a Police Constable Grade II in 1988 and he was upgraded as Police Constable Grade I on 28.09.1999. However, it is stated by the respondents that the



petitioner was upgraded as Police Constable Grade I with effect from 01.06.1998. It is admitted that the petitioner is entitled to be upgraded as Police Constable Grade I after ten years of service, and therefore, there is no dispute or problem till the petitioner was upgraded as Police Constable Grade I.

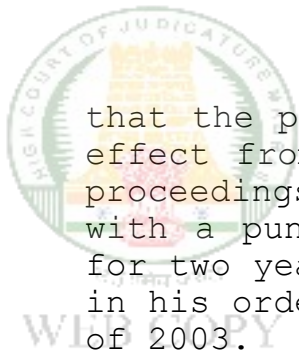
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4.The petitioner himself admitted that he was not upgraded further to the rank of Head Constable along with his batch mates on 01.06.2003, as the petitioner had earned a punishment of black mark on 18.12.2002. It is admitted that the petitioner was placed under suspension from 26.08.2003 to 05.03.2005. Thereafter, the petitioner was awarded with another punishment of reduction in time scale of pay by two stages for a period of two years with cumulative effect with reference to a disciplinary proceeding initiated against the petitioner in P.R.No.76 of 2003. The petitioner was imposed with a punishment of black mark with reference to a disciplinary proceeding in P.R.No.32 of 2002 apart from the punishment with reference to different delinquency in P.R.No.76 of 2003. Again, the petitioner was issued with a charge memo in P.R.No.30 of 2004 under Rule 3(b) of Tamil Nadu Police Subordinate Service (Discipline and Appeal) Rules, 1955, for his reprehensible conduct with a private individual, which resulted in registration of a complaint in Crime No.2647 of 2003.

5.Since the petitioner was found guilty of charges with reference to three different proceedings initiated against him, it is demonstrated that there was currency of punishment from December 2002 to 21.10.2008. It is admitted that the petitioner was upgraded as Head Constable with effect from 22.10.2008 by the Commissioner of Police, Tirunelveli, vide order, dated 22.06.2009. The grievance of the petitioner is that though his promotion was deferred on account of successive punishments, he is entitled to get promotion with retrospective effect after completion of the currency of punishment. The submission is not supported by rule or precedent.

6.Though the petitioner has raised several grounds in the affidavit filed in support of the Writ Petition, the learned Counsel appearing for the petitioner is unable to substantiate any one of the grounds with reference to the dates. Since the petitioner is unable to narrate the events with reference to the crucial dates, the learned Counsel appearing for the petitioner is unsuccessful to convince this Court on merits.

7.The petitioner was imposed with several punishments successively. The information furnished by the respondents in the counter affidavit with reference to different disciplinary proceedings vide P.R.No.30 of 2004, P.R.No.32 of 2004 and P.R.No.76 of 2003 are not in dispute. It is stated that the petitioner was imposed with a punishment of black mark and the currency of punishment was from 18.12.2002. Thereafter, the petitioner was imposed with a punishment of suspension with effect from 26.08.2003. It is admitted



that the petitioner could have been upgraded as Head Constable with effect from 01.06.2003, if he had not involved in any disciplinary proceedings. It is admitted that the Writ Petitioner was inflicted with a punishment of reduction in time scale of pay by two stages for two years with cumulative effect by the Superintendent of Police in his order, dated 25.12.2004. This was with reference to PR.No.76 of 2003.

8.It is admitted that on further appeal preferred by the petitioner, the punishment was modified into that of reduction of time scale of pay by two years without cumulative effect. Again, the petitioner was arrested and remanded with reference to a crime punishable for the offences under Section 294(b) IPC on 24.10.2003. When a disciplinary proceeding was initiated in P.R.No.30 of 2004, the punishment was reduction of pay by two stages for a period of two years with cumulative effect. The appeal filed by the petitioner was also rejected.

9.Though the petitioner would have been upgraded as Head Constable on 01.06.2003 along with his batch mates, due to the earnings by three punishments successively by the petitioner, the petitioner's upgradation was delayed. Since the punishment in P.R.Nos.76 of 2003 and 30 of 2004 was completed on 21.10.2008, the petitioner's upgradation was rightly considered with effect from 22.10.2008, which was done by the order of the City Police Commissioner, Tirunelveli, dated 22.06.2009. The petitioner is unable to demonstrate before this Court how the respondents could have considered his promotion or upgradation prior to 22.10.2008.

10.The learned Counsel appearing for the petitioner submitted that the petitioner is entitled to promotion with retrospective effect after the currency of punishments are over. As pointed out earlier, the said submission has no merits either on the basis of Service Rules or on the basis of judicial precedents. It is not the case where the petitioner got the order of punishments reversed by subsequent order. In the case in hand, the petitioner, who admits that he suffered successive punishments, is not entitled to get promotion during the currency of punishment.

11.This Court finds no merit in the Writ Petition. Accordingly, the Writ Petition is dismissed. No costs.

Sd/-

Assistant Registrar (AS)

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/ /2021

Sub Assistant Registrar(CS)



To

1.The Commissioner of Police,
Tirunelveli City,
Tirunelveli, Tirunelveli District.

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

3.The Principal Secretary to Government,
Home Department,
Secretariat, Chennai - 9.

+1 CC to M/s.SPL.GP (SR-33367[F] dated 01/11/2021)

W.P. (MD) .No.20182 of 2014
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MGJ/PM(18.11.2021) 4P 5C