



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P. (MD)No.6359 of 2017

Maniraj ...Petitioner

Vs.

- 1.The Director General of Police,
Kamarajar Salai,
Mylapore, Chennai-600 004.
 - 2.The Superintendent of Police,
District Police Office,
Trichy Rural District,
Tiruchirappalli.
 - 3.The Deputy Inspector General of Police,
Tiruchirappalli Range,
Trichy.
- ...Respondents

(3rd Respondent is impleaded vide order dated 18.03.2021 in W.MP.MD.No.8094/19 in WP(MD).6359/17)

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned punishment order of the 2nd respondent herein in PR.67/H3/2008 dated 20.01.2009, confirmed by the impugned order of 2nd respondent in C.No.B1/APP.02/2009 dated 19.03.2009 and confirmed by the impugned order of the first respondent herein in Rc.No.AP.IV(1)/75100/2009 dated 12.06.2009, and quash the same as too excessive and exceeding their power and consequently direct the 1st respondent herein to effect promotion to the petitioner as Superintendent as per the panel of seniority prepared by the 1st respondent for the year 2008-2009 on par with his juniors with all accrued service benefits based on the petitioner's representation dated 07.11.2016 submitted to the 1st respondent.

(Prayer was amended as per Court order, dated 18.03.2021, W.MP.MD.No.8095/19 in WP(MD).6359/17)

For Petitioner :Mr.P.Alliraja
For Respondents :Mr.D.Muruganantham
Additional Government Pleader

O R D E R

Initially, the petitioner has filed the writ petition seeking for the issuance of a writ of Mandamus directing the first respondent

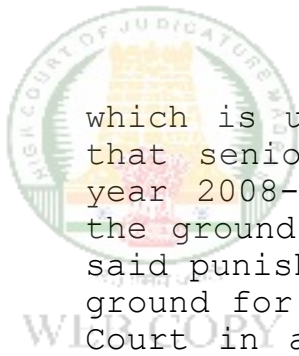


to promote the petitioner to the post of Superintendent with effect from 2008 as per the panel of seniority prepared by the first respondent for the year 2008-09, based on the petitioner's representation, dated 07.11.2016. During the pendency of the writ petition, the petitioner has filed the implead petition to implead the Deputy Inspector General of Police, as third respondent. The petitioner has also filed an amendment petition and this Court ordered the said petition. In view of the amendment, the petitioner challenge the punishment imposed by the respective respondents.

2.The case of the petitioner is that originally, he was appointed as Junior Assistant, on 06.07.1984 in the District Police Office, Pudukkottai and he served as Junior Assistant without any remarks. Thereafter, the petitioner was promoted as Assistant on 04.07.1997 and subsequently, he was transferred to the District Police Office, Trichirappalli. While so, due to enmity between the petitioner's family and his relative, a false case has been foisted against the petitioner and the case was taken on file in C.C.No.4 of 2005 before the Special Judicial Magistrate Court No.III, Trichirappalli. In the said case, the petitioner was convicted and he has paid the fine amount of Rs.250/-. Aggrieved over the same, the petitioner has preferred an appeal before the learned Sessions Court, Trichirappalli, and that appeal was not pursued by the petitioner because of his personal inconvenience and ultimately, the said appeal was not taken on file.

3.While that being so, the second respondent has initiated the departmental action by issuing a charge-memo under Section 17(a) of Tamil Nadu Civil Service (Discipline and Appeal) Rules, 1955, by issuing punishment role in P.R.No.67 of 2008. Thereafter, the petitioner has submitted his explanation on 20.01.2009 before the second respondent and the same was not considered. Since the petitioner was found guilty, the second respondent imposed the punishment of postponement of increment for two years. Against which, the petitioner preferred an appeal before the Deputy Inspector General of Police and the said appeal was rejected on 19.03.2009. Thereafter, the petitioner has filed a mercy petition before the Director General of Police, Chennai, and the same was also rejected on 12.06.2009. Thereafter, the petitioner has filed review petition before the Government and the same was rejected by G.O.Ms.No.(2D).No.60/Home POL (v) Dept., dated 09.12.2010. Challenging the same, the present writ petition is filed.

4.The learned counsel appearing for the petitioner submitted that due to personal enmity, a case has been registered against the petitioner in C.C.No.4 of 2005 before the Special Judicial Magistrate Court-III, Trichirappalli, wherein, the criminal Court has convicted the petitioner by imposing the fine amount of Rs.250/-. Based on the said conviction, the Disciplinary Authority viz., the 2nd respondent issued the show cause notice, without

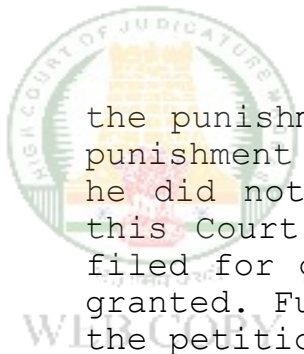


which is unsustainable one. Further, the learned counsel submitted that seniority list was prepared by the first respondent for the year 2008-2009, but, promotion was not given to the petitioner on the ground of punishment imposed by the disciplinary authority. The said punishment was the minor punishment, which cannot be taken as a ground for denying promotion. In the similar circumstances, this Court in a catena of decision held that if the authority imposed minor punishment, the same could not be taken as a ground for denying the future promotion. Hence, he prays for allowing the writ petition.

5.The learned counsel appearing for the petitioner further submitted that during the pendency of the writ petition, the petitioner has given voluntary retirement application on 31.01.2021 and till date, no decision was taken. Hence, this Court may issue a direction to the respondent concerned to take decision on the application submitted by the petitioner and settle the terminal benefits, as expeditiously as possible.

6.The learned Additional Government Pleader appearing for the respondents submitted that initially, the petitioner has filed the writ petition for issuance of a writ of Mandamus and subsequently, amendment petition was filed to amend the prayer challenging the punishment given by the Disciplinary Authority and confirmed by the Appellate Authority. The punishment was imposed by the Original Authority in the year 2009 and ultimately, the Government rejected the mercy petition and confirmed the order of the Original Authority and the Appellate Authority. The order of punishment of has been challenged after a decade from the date of punishment and the delay in challenging the said order was not properly explained by the petitioner. Due to currency of punishment in P.R.No.67 of 2008 is pending against the petitioner, his name was not recommended in the temporary panel of Assistant fit for promotion as Superintendent for the panel of the year 2008-2009 and also in the subsequent panel. Thereafter, the petitioner's name was recommended in the panel of the year 2012-13 and he was promoted as Superintendent on 28.12.2012. Hence, he prays for dismissal of the present writ petition.

7.The facts in the present case are not in dispute. Admittedly, the petitioner was appointed as Junior Assistant, on 06.07.1984 in the District Police Office, Pudukkottai and he served as Junior Assistant without any remarks. Thereafter, the petitioner was promoted as Assistant on 04.07.1997 and subsequently, he was transferred to the District Police Office, Trichirappalli. It is also not in dispute that due to enmity between the petitioner's family and his relative, a false case has been foisted against him and the case was taken on file in C.C.No.4 of 2005 before the Special Judicial Magistrate Court No.III, Trichirappalli, wherein he was convicted and paid the fine amount of Rs.250/-. Thereafter, a criminal revision was initiated against the petitioner and imposed



the punishment of postponement of increment for two years. The said punishment was imposed against the petitioner in the year 2009 and he did not take any steps to challenge the said punishment before this Court till 2021. In fact, the present writ petition has been filed for granting promotion. Hence, the prayer sought for cannot be granted. Further, even on merits, the conviction was not disputed by the petitioner. In the said conviction, the authority imposed only a minor punishment, which cannot be interfered. Further, it appears that after the currency of punishment is over, the petitioner's name was recommended in the seniority panel for the year 2012-13. Hence, the prayer sought for in the writ petition is misconceived. Accordingly, this Writ Petition is dismissed. No costs.

8. Further, it appears that during the pendency of the writ petition, the petitioner has submitted his Voluntary Retirement application on 31.01.2021 and the same is pending. Therefore, this Court is inclined to issue a direction to the respondent concerned and pass orders on the VRS application submitted by the petitioner, on merits and in accordance with law, as expeditiously as possible, if not passed.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

To:

1. The Director General of Police,
Kamarajar Salai, Mylapore,
Chennai-600 004.
 2. The Superintendent of Police,
District Police Office,
Trichy Rural District,
Tiruchirappalli.
 3. The Deputy Inspector General of Police,
Tiruchirappalli Range, Trichy.
- +1 CC to M/s.SPL GP (SR-12485[F] dated 19/03/2021)

W.P. (MD)No.6359 of 2017
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RP(24.05.2021) P 5C