



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.19550 of 2013

P.Ramachandran

...Petitioner

-Vs-

1.The Additional Director
General of Police and
Inspector General of Prisons,
CMDA Tower-2,
No.1, Gandhi Irwin Salai,
Thalamutu Natarajan Maligai,
Egmore, Chennai - 600 008.

2.Ponnuraj

...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 relevant to the order in No.5785/E.S.1/2012 dated 02.03.2013 passed by the 1st respondent, quash the same as illegal, improper, passed with non application of mind and against the natural justice, thereby direct the 1st respondent to give promotion as Officer Superintendent in the prison on par with the 2nd respondent and pay back all the service and monetary benefits to the petitioner.

For Petitioner : Mr.P.A.Chithramani

For R1 : Mr.P.Ganesan,
Government Advocate

For R2 : No Appearance

ORDER

Heard Mr.P.A.Chithramani, learned counsel for the petitioner and Mr.P.Ganesan, learned Government Advocate for the first respondent. There is no appearance on behalf of the second respondent.



2. The petitioner herein, who had retired in the year 2012, seeks for notional promotion to the posts of Junior Assistant and Superintendent, by comparing himself with the second respondent herein, who was also serving in the Prison Department. The petitioner had retired in the post of Warder from the Government Rehabilitation Home, which was brought under the administrative control of the Social Welfare Department in the year 1997.

3. It is the case of the petitioner that he had expressed his willingness to be transferred to the Prison Department on 30.05.1986 itself and in spite of the same, the first respondent had not transferred him to the Prison Department. The second respondent, who was also similarly placed like the petitioner, had expressed his willingness and was also transferred to the Prison Department and he was given promotion to the posts of Junior Assistant and Superintendent. In view of the inaction on the part of the first respondent in not having transferred the petitioner to the Prison Department, the petitioner now claims for notional promotion to the posts of Junior Assistant and Superintendent.

4. When the petitioner had made a request for such a transfer, the same came to be rejected by the first respondent, through the impugned proceeding dated 02.03.2013, stating that since the petitioner herein had not expressed his willingness prior to 1997, he cannot claim promotion now, since he was not transferred to the Prison Department.

5. While the petitioner claims that he has given his willingness in 1986, the first respondent, in his counter affidavit, has stated that the petitioner had not expressed his willingness in the year 1986 itself. Apparently, for a cause of action that arose in the year 1986, the petitioner herein has filed this writ petition in the year 2013, after his retirement, seeking for notional promotion.

6. The delay of about 27 years in filing this writ petition is inordinate in nature. If the petitioner was of the view that he had given his willingness and the first respondent has not considered the same, he ought to have approached this Court at that relevant point of time. Having waited for 27 years and now claiming notional promotion for two higher posts in comparison with the second respondent, who had expressed his willingness and was also transferred to the Prison Department, is not justifiable. Above all, the claim that the petitioner had



given his willingness is not substantiated properly and when the first respondent had specifically denied such a representation from the petitioner, this Court, exercising its powers under Article 226 of the Constitution of India, cannot go into such disputed facts.

7. In the result, I do not find any merits in the present writ petition. Accordingly, the Writ Petition stands dismissed. No costs.

Sd/-

Assistant Registrar(CCC)

// True Copy //

Sub Assistant Registrar

hvk

To

The Additional Director
General of Police and
Inspector General of Prisons,
CMDA Tower-2,
No.1, Gandhi Irwin Salai,
Thalamutu Natarajan Maligai,
Egmore, Chennai - 600 008.

+1cc to Mr.A.Rajesh kanna, Advocate SR.No.20163

W.P.No.19550 of 2013

SVI (CO)
CB(11/04/2022)