



W.P.No.38258 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 04.11.2022

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.38258 of 2016

K.Mohan Kumar

...Petitioner

Vs.

1.The Director General of Police,
Chennai – 04.

2.The Additional Director General of Police,
Armed Police, Chennai – 10.

3.The Commandant,
Tamilnadu Special Police (TSP) II Battalion
Avadi.

..Respondents

Prayer : Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 1st respondent to pass orders on the representation made by the petitioner dated 16.10.2015 for seeking promotion to the post of Sub-Inspector of Police.



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For Petitioner : Mr.T.Dharani
For R1 to R3 : Mr.S.Rajesh
Government Advocate

ORDER

The relief sought for in the present writ petition is for a direction to direct the 1st respondent to pass orders on the representation made by the petitioner dated 16.10.2015, seeking promotion to the post of Sub-Inspector of Police.

2. The petitioner joined as a Grade-II Police Constable on 23.03.1997 and promoted as Naiks for the year 2001 and further promoted to the post of Havildar on temporary basis from the year 2002 onwards.

3. The services of the writ petitioner in the post of Havildar was regularized during the year 2005. The petitioner was issued with a charge memo for the unauthorized absent and the said disciplinary proceedings ended with an order of punishment of stoppage of increment for a period of two years without cumulative effect. During the year 1999, another



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proceeding was initiated against the writ petitioner, which was also ended with an order of punishment of reduction in the time scale of pay by one stage for two years with cumulative effect.

4. The learned counsel for the petitioner contended that the punishment period expired and even thereafter, the case of the writ petitioner was not considered for promotion to the post of Sub-Inspector of Police in the panel of the year 2007-08 and therefore, the petitioner submitted a representation in the year 2015 to include his name in the panel for promotion and the said representation was not considered. Thus, the petitioner is constrained to move the present writ petition.

5. The learned Government Advocate appearing on behalf of the respondents relying on the counter affidavit, has stated that the petitioner was given promotion to the rank of Naik with effect from 22.08.2005 and as Havildar with effect from 18.03.2007, while the services of his batch mates (1997) were regularized retrospectively in the category of Naik with effect from 18.03.2001 and as Havildar with effect from 18.03.2003 i.e., common

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crucial dates as a one time measure. Those, who had taken their seniority as Havildar 'B' list 18.03.2003 were considered for promotion to the rank of Sub-Inspector of Police and their names were included in the promotion panel. They were promoted as Sub-Inspector of Police. Therefore, the petitioner has to wait and take his term in the promotion panel with reference to his date of B List as Havildar i.e., 18.03.2007 (the date of promotion to the present rank). The petitioner had earned two punishments and hence, he cannot compare and claim on par with others who had not earned punishments.

6. The representation submitted by the writ petitioner on 16.10.2015 was considered by the competent authority in detail. As per the Item No.11, Schedule XI, Section 7 (1) of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016, “Any punishments (other than 'Censure') imposed on a member of service within the period of five years prior to the crucial date, shall be held against the member of service and his name shall not be considered for inclusion in the approved list”.



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7. Since the writ petitioner is having Currency of punishment from the panel of the year 2003-04 to 2007-08, his request for promotion to the post of Sub-Inspector of Police on par with his batch mates were not considered and the authorities found not feasible for compliance as per the provisions of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016. Thus, a suitable endorsement in in RC.No.A2/105920/15 dated 04.03.2020 has been served to the writ petitioner on 14.03.2020.

8. Since the representation submitted by the writ petitioner was considered by the competent authorities with reference to the provisions of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016 and an order was passed in proceedings dated 04.03.2020, which was communicated to the writ petitioner on 14.03.2020, the relief as such sought for in the present writ petition to direct the authorities to consider the representation lost its relevance.

9. Further, the learned Government Advocate appearing on behalf of



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the respondents brought to the notice of this Court that the case of the petitioner had already been considered by the Commandant, TSP XIV Bn., Palani, in proceedings dated 10.10.2019 and he was promoted to the post of Sub-Inspector of Police in accordance with the rules in force.

10. Thus, no further adjudication is required and accordingly, the writ petition stands disposed of. No costs.

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Index : Yes
Speaking order: Yes
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S.M.SUBRAMANIAM, J.

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