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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Order Reserved on: 16.02.2022

Order Pronounced on: 17.03.2022

C O R A M

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

Writ Petition No.4084 of 2014

N.P.Rajendran

... Petitioner

Vs

1. The Secretary to Government
Home (Police III) Department
Fort St. George
Chennai 9.

2. The Director General of Police
Dr. Radhakrishnan Salai
Mylapore
Chennai 4.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus to call for the records of the first respondent in connection with the impugned order passed in Letter D.No.904/Home (Pol.III) Department dated 4/11/2013 and quash the same and further direct the respondents to promote the petitioner of Inspector of Police in the 'C' List for the year 1998 - 99 by placing him in the top of the list and revise the seniority of the petitioner in the cadre of Inspector of Police and grant him consequential service and monetary benefits.

For petitioner ... Mr.K.Venkataramani
Senior Counsel
for M/s.M. Muthappan

For respondents ... Mr.L.S.M.Hasan Fizal
Additional Government Pleader

O R D E R

This writ petition has been filed to quash the impugned order, dated 4/11/2013, passed by the first respondent, in Letter D.No.904/Home (Pol.III) Department and further, direct



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the respondents to promote the petitioner to the post of Inspector of Police in 'C' List, for the year 1998 - 99 by placing him on the top of the list and revise the seniority of the petitioner in the cadre of Inspector of Police and grant him consequential service and monetary benefits.

2. The petitioner is the directly recruited Sub-Inspector of Police, Category - II appointed to service on 28/9/1987. He was subsequently promoted as Inspector of Police on 12/12/2000 and further promoted as Deputy Superintendent of Police, Category - I, by including his name in the panel of Deputy Superintendent of Police category for the year 2011 - 12. According to the petitioner, he has received more than 100 rewards and has not come to any adverse notice.

3. On 5/7/1996, while he was serving as Sub-Inspector of Police, AR IV Platoon 'A' Co., on 5/7/1996, he was directed to escort 39 prisoners from Central Prison to Egmore Court and bring them back to the prison. While the prisoners being produced before the Egmore Metropolitan Court, there was a bomb blast and one of the prisoners who had been brought to Court was murdered in the mele. However, according to the petitioner, he managed to take custody of all the prisoners preventing them from escaping in the melee.

4. However, as sequel to the said incident, he was placed under suspension. A charge sheet was also issued and an enquiry was initiated and concluded holding that charges proved against him. He was ultimately imposed with a penalty of reduction in the time scale of pay by two stages for two years without cumulative effect by the proceedings of the Commissioner of Police, Egmore, Chennai, dated 16/9/1997. As against the order of penalty, the petitioner preferred an appeal before the Director General of Police but the same came to be rejected on 26/9/1998.

5. Being aggrieved by the imposition of the above penalty, the petitioner approached the then Tamil Nadu Administrative Tribunal in O.A.No.6141 of 1998, challenging the punishment. During the said time, the petitioner had become due for promotion as Inspector of Police. On account of the imposition of the penalty, he was not considered for the promotion. In such circumstances, the petitioner filed O.A.No.5724 of 1999, seeking direction for his promotion as Inspector of Police, by including his name in 'C' list of Sub-Inspector of Police fit for promotion as Inspector of Police, Category I for the panel year 1999 - 2000 published on 12/8/1999 with all consequential service and monetary benefits.



6. This Hon'ble Tribunal, by a common order, dated 8/9/2000, dismissed O.A.No.6141 of 1998 in respect of the challenge to the punishment but allowed the other O.A.No.5724 of 1999, directing the respondents to include the name of the petitioner in the panel of Sub-Inspector of Police fit for promotion as Inspector of Police for the year 1999 - 2000 at the top of the panel and the promotion can be given if his chance for such promotion is already reached.

7. Subsequently, the petitioner filed Review Application No.14 of 2001, to review the order, dated 18/6/2002, against dismissal of O.A.No.6141 of 1998 and the learned Tribunal, after taking note of certain crucial fact, which had been over looked at the earlier point of time allowed the Review Application, by an order, dated 28/6/2002, and consequently, set aside the punishment imposed on the petitioner.

8. As against the order passed allowing O.A.No.5724 of 1999, the State preferred W.P.No.1724 of 2011 before this Court and at the time of admission, the Hon'ble Division Bench of this Court granted interim stay. However, in view of the subsequent development, namely, that the punishment itself being set aside in R.A.No.14 of 2001 on 18/6/2002, the State withdrew the writ petition on 7/7/2006. Thereafter, the name of the petitioner was included in the panel of the year 1999 - 2000 at S.No.88-A and promoted, vide, order, dated 29/7/2005.

9. Before withdrawing the writ petition, taking note of the development that the punishment imposed on the petitioner had been set aside, the Government passed G.O.(D) No.451, Home (Police III) Department, dated 11/5/2005, directing the inclusion of the name of the petitioner in C list of Sub-Inspector of Police fit for promotion as Inspector of Police for the year 1999 - 2000 at S.No.88 (A) and promoted. Thereafter, the actual promotion was effected vide, Memorandum, dated 29/7/2005.

10. The grievance of the petitioner is that in terms of the order of the learned Tribunal dated 18/9/2000, in O.A.No.5724 of 1999 he ought to have been placed on the top of the said panel but in violation of the direction he was placed at S.No.88 A and was granted promotion. In this regard, the petitioner appeared to have submitted representations periodically on 23/7/2009 7/6/2010, 3/10/2011 and 5/9/2011. A contempt notice was also issued subsequently. In response to the same, the first respondent passed an order on 4/11/2013, rejecting the claim of the petitioner on the ground that the petitioner's name had already been included in the year 1999 at appropriate place and therefore, such action of the authority



amounted to due compliance with the directions of the Tribunal.

11. Being aggrieved by the rejection this request, the petitioner is before this Court, for the relief stated supra.

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12. Mr.K.Venkatramani, learned Senior counsel who appeared for the petitioner reiterated the above facts. He particularly placed emphasis on the direction of this Court passed in O.A.No.5724 of 1999, dated 18/9/2000, directing the authority to include the name of the petitioner in the panel of Sub-Inspector of Police, fit for promotion as Inspector of Police, for the year 1999 - 2000 at the top of the said panel. As against that writ petition No.1724 of 2011 was filed, but subsequently, it was withdrawn by the State on 7/7/2006. After withdrawing the writ petition, direction passed by the Tribunal in the aforementioned O.A., has become final. According to the learned Senior Counsel in the face of the direction of the Tribunal remaining intact as on date, the petitioner is entitled to be placed at the top of the list of Sub-Inspector for promotion to the post of Inspector of the panel year 1999 - 2000. The impugned rejection by the respondents in the circumstances cannot therefore, be countenanced both in law and facts and liable to be interfered with.

13. After notice, Mr.L.S.M.Hasan Fizal, learned Additional Government Pleader has entered appearance for the respondents and counter affidavit has been filed. In the counter affidavit, the relevant facts stated supra have not been denied and in fact, the same have been repeated. In the counter, it is stated that originally his name was not included in the panel in view of the punishment of reduction in pay by two stages for two years without cumulative effect imposed on 16/9/1997 which was in currency during the panel year 1999 - 2000. However, subsequently, counter proceeded to state that the petitioner's name was included at the appropriate place, as per the seniority and as per the direction of the Hon'ble Administrative Tribunal made in O.A.No.5724 of 1999 dated 18/9/2000.

14. The entire claim of the petitioner herein is premised on the one line observation of the order passed by the Tribunal dated 18/9/2000 in O.A.No.5724 of 1999, directing the petitioner to be placed at the top of the panel of 1999 - 2000 for the purpose of his promotion to the post of Inspector of Police. No doubt that the direction has become final and remained as it is, as the writ petition in W.P.No.1724 of 2011 filed against the direction in the said O.A has been eventually withdrawn. The State withdrew W.P.No.1724 of 2011, on 7/7/2006, as a consequence of the Tribunal setting aside the order of punishment itself by allowing the Review Application No.14 of



2001 filed by the petitioner.

15. However, as far as the averments stated in the counter affidavit it refers to the fact that the petitioner was placed at S.No.88 (A) below the name of his immediate senior Thiru.A.P.Krishnamurthy (S.No.88) and above the name of his immediate junior Tr.S.Muthukumar (S.No.89). According to the counter affidavit, the petitioner was rightly placed at 88 A and his pay had also been regulated as per ruling 17 under rule 27 of the Fundamental Rules. However, in the counter affidavit it has not been explained in clear terms as to how placing the petitioner at S.No.88-A amounted to compliance with the directions of the Tribunal, which used the term at the top of the said panel. Even the impugned order did not clarify this position to the satisfaction of this Court.

16. From the entirety of the averments contained in the counter affidavit, this Court finds there appear to be some force in the contention of the respondents as well. At the same time, this Court is unable to comprehend as to the basis for the Tribunal directing to include the name of the petitioner at the top of the panel of the year 1999 - 2000. Such expression ought to be understood in the context in which the petitioner had premised his claim. This Court in the circumstances is constrained to hold that it is not having the benefit of examining the contents as projected in O.A.No.5724 of 1999. If only a copy of Original Application No.5724 of 1999 had been provided, this Court could understand the context in which such observation was made by the Tribunal. If the meaning of including the petitioner's name at the top of the panel would result in the petitioner over taking several seniors above him at the relevant time, such expression cannot be given effect to at all by this Court. This Court is unable to come to any definite conclusion in the face of the entirety of the present averments in the counter affidavit, and also the simple rejection of the petitioner's claim by the first respondent.

17. For the above stated reasons, the writ petition is liable to be disposed of as under.

18. Impugned order passed in Letter D.No.904/Home (Pol.III) Department, dated 4/11/2013 is hereby set aside, as it failed to clarify the exact position with reference to the observations of the Tribunal in O.A.No.5724 of 1999, viz., "Hence, O.A.No.5724 of 1999 is partly allowed and the respondents are directed to include the name of the applicant in the panel of the Sub-Inspectors of Police, fit for promotion as Inspector of Police, for the year 1999 - 2000, at the top of the said panel and promotion be given to him, if chances for such promotion had already reached."



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19. The first respondent is directed to revisit the claim of the petitioner on the above consideration and pass appropriate orders, within a period of four weeks, from the date of receipt of a copy of this order.

20. It is made clear that in the event of petitioner not stealing a march over his seniors by including his name at the top of the panel of the year 1999 - 2000 in the cadre of Sub-Inspector for promotion to the post of Inspector of Police, the first respondent is directed to comply with the direction of the learned Tribunal in its letter and spirit.

21. It is also made it clear that the petitioner ought not be allowed unintended benefits taking refuge under the observation made as above by the Tribunal.

22. In case, the petitioner is to be favourably considered within the frame work of the abovesaid observation, he is entitled to all the consequential benefits on notional basis.

23. The first respondent, in any event is directed to pass reasoned order within the time stipulated as above.

24. This writ petition is disposed of on the above terms. No costs.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

mvs.
To

1. The Secretary to Government
Home (Police III) Department
Fort St. George
Chennai 9.

2. The Director General of Police
Dr. Radhakrishnan Salai
Mylapore, Chennai 4.

+1cc to Mr..M. Muthappan, Advocate SR.No.17906
+1cc to Government Pleader SR.No.18553

W.P.No.4084 of 2014

NRJK(CO)
GMY(06/04/2022)