



WEB COPY



Order dated : 11.07.2022
Writ Petition No.28491 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.07.2022

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THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

Writ Petition No.28491 of 2014

V.Dharmadurai

S/o.Vairappa Thevar

... Petitioner

Vs.

1.The Superintendent of Police,
Nagapattinam District.

2.The Deputy Inspector General of Police,
Thanjavur Range, Thanjavur.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records of the first respondent in connection with the impugned orders passed in Na.Ka.No.A1/3796/2012 dated 15.06.2012 and A1/13471/2012 dated 09.08.2012 and the second respondent in C.No.A1/7171/2012 dated 04.08.2012 and quash the same and direct the respondents to upgrade the petitioner as Head Constable in the year 1998 and further, upgrade him as Special Sub-Inspector in the year 2008 and grant him all consequential service and monetary benefits.

For Petitioner : Mr.K.Venkataramani, Senior Counsel
for Mr.M.Muthappan
For Respondents : Mrs.S.Anitha,
Special Government Pleader



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ORDER

The orders passed by first respondent in Na.Ka.No.A1/3796/2012 dated 15.06.2012 and A1/13471/2012 dated 09.08.2012 and the order passed by second respondent in C.No.A1/7171/2012 dated 04.08.2012, are under challenge in the present writ petition.

2. The petitioner joined as directly recruited Grade-II Police Constable in Nagapattinam District Armed Reserve on 11.10.1975. He was upgraded as Grade-I Police Constable on 09.01.1993 and further, upgraded as Head Constable in the year 2003. The petitioner reached the age of superannuation and retired from service on 30.06.2012. The present writ petition has been filed after two years from the date of retirement.

3. The grievance of the petitioner is that though he had completed ten years of service in the post of Head Constable, the benefit of upgradation to the post of Special Sub-Inspector of Police was not granted to him. The representation, in this regard, submitted by the petitioner was rejected by respondents and therefore, the petitioner is constrained to move the present writ petition.

4. Learned Senior Counsel appearing on behalf of the petitioner mainly



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contended that the petitioner had completed ten years of service in the post of Head Constable and therefore, he is entitled for upgradation to the post of Special Sub-Inspector of Police as per the Government policy for upgradation. However, the benefit was not extended to the petitioner without any valid reason. It is contended that the punishment imposed on the petitioner cannot stand in the way of denying promotion to the petitioner. Upgradation was given considering the stagnation in the police force and therefore, the said benefit cannot be denied merely on the ground that the petitioner suffered punishment during the relevant point of time. The juniors to the petitioner were also upgraded and therefore, the petitioner is entitled for notional upgradation with all monetary benefits.

5. Learned Senior Counsel further submitted that a Full Bench of this Court also clarified that ten years of service as Head Constable is required for the purpose of upgradation to the post of Special Sub-Inspector of Police. The Government policy, in this regard, was interpreted by the Full Bench of this Court and the requisite service of ten years should have been completed for granting the benefit of upgradation.

6. Learned Special Government Pleader appearing on behalf of the



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respondents objected the said contention by stating that the petitioner was not eligible for upgradation to the post of Special Sub-Inspector of Police. Though his batch mates were upgraded as Head Constables in the year 1998, the petitioner was not considered for promotion as grave charge under Rule 3(b) in PR No.12/1996 was pending under the discipline and appeal rules and subsequently, the petitioner was also awarded punishment of compulsory retirement from service with effect from 13.12.1999, which was later modified into that of reduction in time scale of pay by two stages for two years with cumulative effect by the second respondent in proceedings C.No.D2/AP-8/DIG-TAN/2000, dated 23.02.2000.

7. Learned Special Government Pleader further submitted that the petitioner was also facing a charge under Rule 3(b) in another PR No.08/1993 sequel to PSO 145 enquiry and awarded with the punishment of postponement of increment for one year without cumulative effect on 12.06.2002. On expiry of punishment period, he was re-promoted on 16.12.2003 and thereafter, he was upgraded as Head Constable on 16.12.2003. Accordingly, his next promotion as Special Sub-Inspector of Police was due on 16.12.2013 i.e., after the completion of ten years of service in the category of Head Constable. Since the



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petitioner attained the age of superannuation on 30.06.2012, he is not eligible for upgradation to the post of Special Sub-Inspector of Police.

8. Even for upgradation, the crucial date as fixed in the Government order is to be followed. The Full Bench of this Court also clarified that ten years of service in the post of Head Constable is requisite for upgradation to the post of Special Sub-Inspector of Police. Since the petitioner suffered certain punishment during the relevant point of time, his upgradation to the post of Head Constable was delayed and it was granted only on 16.12.2013 and thereafter, the petitioner has not completed ten years of service. Hence, the petitioner was found not eligible for further upgradation to the post of Special Sub-Inspector of Police. This being the factum established, the petitioner is not eligible for upgradation as Special Sub-Inspector of Police as he had not completed ten years of service in the category of Head Constable.

Accordingly, this writ petition stands dismissed. No costs.

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S.M.SUBRAMANIAM., J



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