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W.P.No.9257 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.12.2022

CORAM :

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.9257 of 2017

S.Murugan

... Petitioner

-Vs-

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

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

3. The Superintendent of Police,
Namakkal District.

4. The Superintendent of Police,
Dharmapuri District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue Writ of Mandamus, directing the respondents to promote the petitioner as Sub-Inspector of Police in pursuance of inclusion of his name in the C list of Head Constable (Armourer) fit for promotion as Sub-Inspector (Armourer) based on the orders issued by the 4th respondent in D.O.No.582/2015 C.No.A3/20601/2015 dated 14/7/2015



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and the first respondent in Rc.No. 14426/NGB V (2)/2015 dated 9.9.2015 without reference to the charge memo issued to the petitioner by the 4th respondent in P.R.No.H1/169/2015 dated 3.12.2015 and promote the petitioner as Sub-Inspector of Police (Armourer).

For Petitioner : Mr.T.Ayngaraprabhu

For Respondents : Mr.S.Rajesh
Government Advocate

ORDER

The relief sought in the present writ petition is to direct the respondents to promote the petitioner as a Sub Inspector of Police in pursuance of inclusion of his name in the “C” list of Head Constable (Armourer) fit for promotion as a Sub Inspector (Armourer) based on the orders issued by the 4th respondent in D.O.No.582/2015 C.No.A3/20601/2015, dated 14.7.2015, and the first respondent in Rc.No.14426/NGB V (2)/2015, dated 9.9.2015, without reference to the charge memo issued to the petitioner by the fourth respondent in P.R.No.H1/169/2015, dated 3.12.2015, and promote the petitioner as Sub-Inspector of Police (Armourer).



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2. The petitioner states that he was initially appointed as Grade-II Police Constable on 16.04.1997. He was upgraded as Grade-I Police Constable on 01.05.2007 and further upgraded as Head Constable on 01.05.2012.

3. The petitioner states that he is fully qualified for promotion to the post of a Sub-Inspector and his name was included in the C list for promotion to the post of Sub Inspector of Police. However, he was not promoted to the post of Sub Inspector without any valid reason. The petitioner submitted a representation in this regard which was not considered by the competent authority. Thus, the petitioner is constrained to move the present writ petition.

4. The learned Government Advocate appearing on behalf of the respondents relied on the counter affidavit and made a submission that the writ petitioner was not facing any charge under rule 3(b) or 3(a) before the crucial date, that is 01.07.2014. Hence, his name was included in the “C” list of Head Constable (Armourer), fit for promotion to the post of Sub Inspector (Armourer) for the year 2014. During the visit of the DSP, PEW, Dharmapuri I/c. AR, Dharmapuri to Armourer Unit on



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27.07.2015, he found some misappropriation committed by the writ petitioner. DSP, PEW, Dharmapuri I/c.AR, Dharmapuri and the Reserve Inspector of Police, AR, Dharmapuri conducted an inquiry in the presence of SI (Armourer) Grade-I Police Constable 979 Mullaiarasu and Grade-I Police Constable 462 Paruvatharajan of the Armourer Unit on 01.08.2015 and identified that 108 spare parts of the total number of 37,410 Musket and 303 Guns etc. were found missing. It is also identified that instead of fitting original company parts in 410 Musket and 303 Gun etc., inferior quality parts purchased from local has been fitted. Based on the reports of the DSP, PEW, Dharmapuri I/c.AR, Dharmapuri and the Reserve Inspector of Police, AR, Dharmapuri, the fourth respondent had ordered to deal with the writ petitioner under rule 3(b) of the Tamil Nadu Police Subordinate Services (Discipline and Appeal) Rule 1955 on 27.08.2015.

5. The petitioner submitted a representation to promote him to the post of Sub Inspector of Police. The second respondent considered the representation and found that before issuing an order of promotion, a charge memo under Rule 3(b) of the TNPSS (D&A) Rules 1955 was issued against the writ petitioner in proceeding dated 27.08.2015 for



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serious departmental lapses committed by the writ petitioner.

Accordingly, the department had found that the petitioner is not eligible for promotion as a Sub Inspector (Armourer). When a specific charge has been framed against the writ petitioner during the pendency of the panel, the promotion was deferred.

6. As per the rules and the Government Guidelines issued, mere inclusion of the name in the panel would not confer any right to claim promotion. In the present case, as on the crucial date, there was no impediment for considering the name of the writ petitioner and after the inclusion of his name in the panel, a charge memo was issued for certain grave allegations and therefore, the authorities competent deferred the promotion of the writ petitioner to the post of Sub Inspector of Police (Armourer).

7. Promotion per se cannot be claimed as an absolute right. Consideration for promotion is a right of an employee. In the present case, the name of the writ petitioner was considered since he was not facing any Departmental Disciplinary Proceeding. However, after the inclusion of his name in the panel, the authorities found certain serious



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lapses by the petitioner in dealing with arms and emulations and accordingly framed charges under rule 3(b) of the Discipline and Appeal Rules. If at all any charge for the grave offense has been framed before issuing the promotion order pursuant to the panel, then, there is no impediment for the authorities to defer the name of the personnel against whom the charge has been framed. Thus, this Court does not find any infirmity in respect of the actions taken by the respondents and not promoting him to the post of Sub Inspector of Police (Armourer).

8. Accordingly, the writ petition stands **dismissed**. However, there shall be no order as to costs.

01.12.2022

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

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