



W.P.(MD)No.7085 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED:13.12.2022

CORAM:

THE HONOURABLE **MR.JUSTICE M.DHANDAPANI**

W.P.(MD)No.7085 of 2020

S.Raja

... Petitioner

Vs.

1.The Principal Secretary to Government,
Home Department,
Secretariat,
Fort St. George,
Chennai.

2.The Director General of Police,
Law and Order,
Kamarajar Salai,
Mylapore,
Chennai – 4.

3.The Superintendent of Police,
Virudhunagar District,
Virudhunagar.

4.The Superintendent of Police,
Madurai District,
Madurai.

5.The Deputy Superintendent of Police,
Oomachikulam Sub-Division,
Madurai District,
Madurai.

... Respondents



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Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order in C.No.A3/009815/107/2019 dated 10.09.2019 issued by the fourth respondent and quash the same as illegal and consequently, direct the fourth respondent to grant promotion to the petitioner to the post of Grade I Police Constable with effect from 01.03.2019 with all notional monetary benefits.

For Petitioner : Mr.A.Rajaram

For Respondents :Mrs.K.Christy Theboral,
Additional Government Pleader

ORDER

This writ petition has been filed to quash the impugned order in C.No.A3/009815/107/2019, dated 10.09.2019, issued by the fourth respondent and consequently, to direct the fourth respondent to grant promotion to the petitioner to the post of Grade-I Police Constable with effect from 01.03.2019, with all notional monetary benefits.

2. The case of the petitioner is that he was appointed as Grade-II Police Constable on 01.03.2009 and during his service, vide order dated 16.02.2016, he was awarded with the punishment of 'postponement of next increment for one year which shall operate to postpone the future increment'. Subsequently, the petitioner preferred an appeal and the same was also dismissed. Thereafter,



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the petitioner made a mercy petition before the second respondent and vide order dated 10.10.2017, the punishment imposed against the petitioner was modified to 'postponement of increment for a period of one year which shall not operate to postpone the future increment'. Pursuant to which, annual increment was sanctioned. However, promotion to Grade-I Police Constable was not granted to the petitioner. Hence, the petitioner made several representations to the respondents. However, the fourth respondent rejected the request of the petitioner vide the impugned order, dated 10.09.2019. Subsequently, the petitioner was given promotion on 01.03.2020 instead of 01.03.2019, on which date, the batch mates of the petitioner were given promotion as Grade-I Police Constable. Hence, the petitioner has filed this writ petition with the aforesaid prayer.

3. The learned Additional Government Pleader appearing for the respondents would submit that as per circular memorandum in Rc.No.2510112/NGB III(2)/2004, dated 12.08.2005, instructions were issued to strictly adhere the above guidelines in Chief Office Memorandum in Rc.No. 29066/NGB.IV/2016, dated 01.08.2016, with regard to impact of punishments/charges on time bound upgradation of constables and in para – 6(ii), it is stated as follows:



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“ In cases of punishments other than “Censure” imposed within the check period of five years preceding the date of Government order sanctioning upgradation, upgradation shall be deferred for one year from the date.”

The third respondent imposed punishment vide order dated 16.02.2016 within five years check period preceding the crucial date ie., 01.03.2019 (check period was 01.03.2014 to 01.03.2019). Even though there is no currency of punishment on the crucial date, as the punishment was awarded within the check period, the upgradation was deferred for one year, which is perfectly in order and therefore, prayed for dismissal of this writ petition.

4. Heard the learned counsel appearing for the petitioner, the learned Additional Government Pleader for the respondents and perused the materials produced before this Court.

5. Admittedly, the petitioner entered into service as Grade II Police Constable on 01.03.2009. The petitioner claims that similarly placed persons were given promotion on 01.03.2009, however, the petitioner was not given promotion on the ground that he suffered a punishment within the check period



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ie., from 01.03.2014 to 01.03.2019 and therefore, his upgradation was deferred for one year ie., from 01.03.2019 to 01.03.2020 and subsequently, the petitioner was given promotion/upgradation on 01.03.2020. Therefore, the prayer sought for the petitioner cannot be granted.

6. In the result, this writ petition is dismissed. No Costs.

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To

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M.DHANDAPANI,J.

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