



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:06.04.2022

CORAM:

THE HONOURABLE **MR.JUSTICE S.M.SUBRAMANIAM**

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W.P. (MD)No.14466 of 2019

S.Manoharan

... Petitioner

Vs.

1. The State of Tamil Nadu,
represented by the Additional Chief Secretary to Government,
Home (Police-1) Department,
St.George Fort, Secretariat,
Chennai-9.

2. The Director General of Police, (L & O),
O/o the Director General of Police,
Dr.Radhakrishnan Road,
Mylapore, Chennai-4.

3. The Commissioner of Police,
O/o. the Commissioner of Police,
Salem City, Salem.

... Respondents

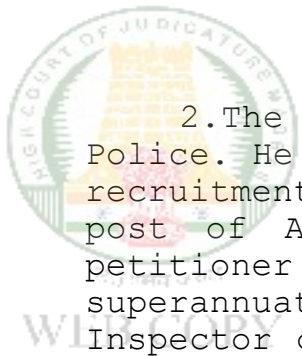
PRAYER: Writ Petition under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the Impugned Order in G.O.(D)No.74 dated 25.01.2019 on the file of the Respondent No.1 and Quash the same as illegal and directing the Respondent No.1 to consider the Petitioner for Notional Promotion to the post of Additional Superintendent of Police (Category-II) with effect from 26.04.2018 on par with the Petitioners Junior Mr. T.V.Muralidharan with all consequential monetary benefits passed by this Hon'ble Court.

For Petitioner : Mr.I.Pinaygash

For Respondents : Mr.D.Sadiq Raja
Additional Government Pleader

ORDER

The order of rejection rejecting the claim of the writ petitioner for retrospective promotion to the post of Additional Superintendent of Police, on par with the his Junior, is under challenge in the present writ petition.



2.The writ petitioner is a retired Deputy Superintendent of Police. He was appointed as Sub-Inspector of Police by way of direct recruitment. He was promoted to the post of Inspector and to the post of Assistant Commissioner of Police and subsequently, the petitioner retired from service on attaining the age of superannuation on 30.06.2018. When the petitioner was working as Inspector of Police attached to the Traffic Wing of Thilagar Thidal Police Station, Madurai District, on 01.08.2007, a criminal case was registered in Crime No.16 of 2007 against him under Section 7 of the Prevention of Corruption Act, 1988 and departmental disciplinary proceedings were also initiated.

3.However, the petitioner was exonerated, as the criminal proceedings were quashed. The departmental disciplinary proceedings were also disposed of. The petitioner, after retirement, made a claim stating that he should be promoted as Additional Superintendent of Police(ADSP) on par with his junior one Mr.T.V.Muralidharan.

4.The learned counsel appearing for the petitioner reiterated that even in the cadre of Sub-Inspector of Police, the said Muralidharan was junior to the writ petitioner. The junior was promoted to the post of ADSP and therefore, the petitioner should be granted promotion on par with his junior notionally with all consequential benefits.

5.The learned Additional Government Pleader appearing on behalf of the respondents made a submission that no doubt a criminal case was registered against the petitioner under the Prevention of Corruption Act, was quashed. However, the petitioner was involved in yet another departmental disciplinary proceedings, which was ended with an order of punishment. During the relevant point of time, when the said junior Mr.Muralidharan was promoted as DSP, the petitioner's case was not considered on account of currency of punishment. Therefore, the petitioner was promoted to the post of DSP subsequently, after the promotion of his junior Mr.Muralidharan. Thus, the petitioner became junior to the said Muralidharan in the cadre of DSP. The post of DSP is the feeder category for the promotion to the post of ADSP. When the said Muralidharan became senior in the cadre of DSP, the very reference made by the writ petitioner is untenable and on that ground, the claim of the writ petitioner for retrospective promotion was rejected by the competent authorities. Thus, there is no infirmity in the writ petition and the same is to be rejected.

6.The facts are not disputed between the parties. As the writ petitioner was facing departmental disciplinary proceedings, punishment was imposed by the disciplinary authority was also not disputed. Further, the junior Mr.Muralidharan in the category of Sub-Inspector of Police was promoted to the post of DSP, when the



promoted in the panel of year 2013-2014. The petitioner was promoted in the year 2009 as DSP. However, the petitioner states that the petitioner was promoted as DSP in the panel of the year 2009-2010. Therefore, the petitioner became junior to the said Muralidharan in the cadre of DSP.

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7. When the petitioner became junior on account of currency of punishment in the cadre of DSP, he cannot refer the said Muralidharan for the purpose of securing retrospective promotion for the cadre of DSP. The very claim is based on his junior, became untenable, as his junior became senior in the cadre of DSP, in view of the fact the petitioner was suffering currency of punishment during the particular period. Further, the order impugned also reveals that the petitioner retired from service on 30.06.2018 and his name was not considered for inclusion in the temporary panel for the post of ADSP(AR) for the year 2018-2019. None of the junior to the writ petitioner in the category of DSP (category-2) has been included in the temporary panel to the post of ADSP(Armed reserve) for the year 2017-2018. This being the factum established, the very comparison made by the writ petitioner along with Mr. Muralidharan, is untenable and the reasons stated in the impugned order is inconsonance with the promotion rules in force.

8. The learned counsel for the petitioner made a submission that the petitioner may be permitted to file a review petition. It is always left open to the aggrieved person to approach the competent authority for redressal of his grievance.

9. The relief sought for in the present writ petition cannot be granted. Accordingly, this writ petition stands dismissed. No costs.

Sd/-

Assistant Registrar (RECORDS)

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Sub Assistant Registrar(CS)

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To

1. The Additional Chief Secretary to Government,
State of Tamil Nadu,
Home (Police-1) Department,
St. George Fort, Secretariat,
Chennai-9.



2. The Director General of Police, (L & O),
O/o the Director General of Police,
Dr.Radhakrishnan Road,
Mylapore, Chennai-4.

3. The Commissioner of Police,
O/o. the Commissioner of Police,
Salem City, Salem.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

W.P. (MD) No.14466 of 2019
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RK(04/05/2022) 4P 5C