



WEB COPY

W.P.No.10029 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.12.2023

CORAM

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.10029 of 2012

K.G.Ravindran

... Petitioner

Vs.

1. The State of Tamil Nadu,
Rep. by the Secretary to Government,
Home Department,
Fort St. George,
Chennai – 600 009.

2. The Director General of Police,
Chennai – 600 004.

3. The Commissioner of Police,
Coimbatore City,
Coimbatore.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records comprised in the proceedings of the second respondent in Rc.No.241649/NGB/V(2)/2010 dated 11.01.2011 and the consequential proceedings of the third respondent in RC.No.N2/1888/2010 dated 08.03.2011 and to quash the proceedings of the second and third respondents dated 11.01.2011 and 08.03.2011 and consequently direct the respondents herein to promote the



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petitioner to the post of Sub-Inspector of Police by including his name in the panel for the year 2000.

For Petitioner : Mr.Sivavarthanan

For Respondent : Mr.G.Ameedius,
Government Advocate

ORDER

This writ petition has been filed challenging the proceedings issued by the second respondent bearing RC.No.241649/NGB/V(2)/2010 dated 11.01.2011 and the consequential proceedings issued by the third respondent bearing RC.No.N2/1888/2010 dated 08.03.2011 and to quash the same and also sought for a consequential direction to the respondents herein to promote the petitioner to the post of sub-inspector of police by including his name in the panel in the year 2000.

2. Through the impugned proceedings, the petitioner was informed that he is not allowed to participate in the promotion test for the year 2000, as he was undergoing the punishment pursuant to an order dated 15.03.1999, imposing the punishment of reduction of pay by one stage for one year, without cumulative effect and the same was under operation.



3. It is the contention of the learned counsel for the petitioner that the currency of the punishment imposed upon him through the order dated 15.03.1999 is only for a period of one year and on expiry of the said currency of punishment, he is entitled for promotion to the post of sub-inspector of police, but the respondents have not allowed the petitioner to participate in the promotion test conducted for the years 2001-2004 in an arbitrary manner.

4. The third respondent filed a counter affidavit stating that though the petitioner was imposed with the punishment of reduction of pay of one stage, without cumulative effect, the petitioner is not entitled for promotion during the check of five years in terms of the G.O (Ms) No.368, Personnel and Administrative Reforms Department dated 18.10.1993. Thus, it is contended that in the light of the said Governmental Order, the petitioner is not entitled to participate in the promotion test for a period of five years from the date of imposition of the punishment on the petitioner. It is also stated in the counter affidavit that during the years of 2001-2003, no promotion test was conducted as there were no vacancies to be filled in during the said years. It is also stated that though a promotion test was conducted during the years 2005 and 2006 and the petitioner was allowed to participate in the



promotion test, the petitioner could not qualify for the promotion. However, finally he was promoted in the year 2009.

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5. The stand of the respondents that the petitioner is not entitled to participate in the promotion test during the check period of 5 years after the imposition of punishment is concerned, by placing reliance on the G.O (Ms) No.368, Personnel and Administrative Reforms Department dated 18.10.1993, the said aspect of the matter was already considered by the learned Full bench of this court in the case of ***The Deputy Inspector General of Police, Thanjavur Range, Thanjavur -vs- V.Rani*** reported in [(2011) 3 CTC 129], wherein it was held that the embargo put on the right of the government servant for being considered for promotion for a further period after the currency of punishment is over in the name of check period viz., one year in the case of censure and five years in the case of other minor punishments is illegal and impermissible and contrary to the statutory rules.

6. In the light of the law laid down by the full bench of this court, the stand of the respondents in stating that the petitioner is not entitled to



participate or to appear for the promotion test for a period of five years cannot be sustained.

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7. Be that as it may, as already noted above, there was no promotion test conducted during the years 2001-2003 and the petitioner could not qualify in the promotion test that were conducted during the year 2005 and 2006 and ultimately, he was promoted in the year 2009. As the expiry of the currency of punishment would not automatically result in promoting the petitioner to the post of Sub-Inspector of police, but such promotion is subject to conducting of a promotion test and availability of vacancies as well as the petitioner being qualified for such promotion.

8. In the instant case, no such test was conducted in the years 2001-2003 for want of vacancies in the category of Sub-Inspector of Police and petitioner could not qualify till the year 2009. Hence, no positive directions can be issued for directing the respondents to promote the petitioner notionally.



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9. In the circumstances, thought the stand of the respondents that the petitioner is not entitled for consideration during the said check period of 5 years is held to be legal, the consequential relief sought by the petitioner cannot be granted in the facts and circumstances, as noted above.

10. Accordingly, the writ petition stands dismissed. There shall be no order as to costs. Miscellaneous petitions, if any, shall stand closed.

13.12.2023

skr

Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No

To

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MUMMINENI SUDHEER KUMAR, J.

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