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W.P.No.18679

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.12.2023

CORAM:

THE HON'BLE MR. JUSTICE K.KUMARESH BABU

W.P.No.18679 of 2011

V.A.Yesudoss

...Petitioner

Vs.

The Superintendent of Police,
Tiruvallur District.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records of the respondent in connection with the impugned order passed by him in C.No.A2/19214/2010 dated 21.12.2010 and quash the same and further direct the respondent to upgrade the petitioner as Special Sub-Inspector of Police with effect from 01.01.2010 and grant him all consequential service and monetary benefits at par with his juniors.

For Petitioner	:	Mr.M.Muthappan for Mr.K.Venkataramani, Senior Counsel
For Respondent	:	Mr.R.Neethi Perumal Government Advocate



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ORDER

WEB COPY The Writ Petition has been filed challenging a communication of the respondent dated 21.12.2010 with a further direction to upgrade the petitioner as a Special Sub Inspector with effect from 01.01.2010.

2.Heard Mr.K.Venkataramani, learned Senior Counsel appearing for Mr.M.Muthappan, counsel on record for the petitioner and Mr.R.Neethi Perumal, learned Government Advocate appearing for the respondent.

3.Mr.K.Venkataramani, learned Senior Counsel appearing for the petitioner would submit that the petitioner was directly recruited as a Grade – II Police Constable in the District Armed Reserve, Kancheepuram. He was upgraded as a Grade – I Police Constable with effect from 01.04.1995. The petitioner was originally upgraded as Head Constable on 18.04.2000 by the respondent herein. Thereafter, a show cause notice was issued to the petitioner by the Deputy Inspector General of Police, Chennai Range disagreeing with the Enquiry Officer's Report and pursuant to the said show cause notice, he was imposed with a punishment on 12.09.2000 of a reduction in pay scale by one stage for one year without cumulative effect. However, by order dated 11.03.2001, the respondent herein had cancelled the upgradation on the ground that when his upgradation was made, the petitioner was



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being dealt with under Rule 3(b) of Tamil Nadu Police Subordinate Service (D&A)

Rules in PR.No.23 of 2000.

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4.He would further submit that the petitioner was upgraded as Head Constable with effect from 25.04.2002. He would submit that the persons who were all upgraded as Head Constable similarly placed to the petitioner were all upgraded as Special Sub Inspector in the year 2010 which necessitated the petitioner to make a representation to the respondent seeking upgradation. By order dated 28.09.2010, this Court in W.P.No.22094 of 2010 had directed the respondent to consider the case of the petitioner and pass appropriate orders within a period of eight weeks. However, without passing any order, a communication of the respondent addressed to the Government Pleader, High Court was enclosed along with a letter addressed to the counsel for the petitioner wherein it had been indicated that the claim of the petitioner could not be considered.

5.He would submit that the said communication is contrary to the materials available on record and therefore, he would submit that the entire proceedings would have to be set aside and the petitioner should have been given upgradation as Special Sub Inspector on completion of 10 years of his service as Head Constable which he had been originally upgraded on 18.04.2000. He would further submit that the



petitioner had also attained the age of superannuation in the year 2014. Even assuming that the petitioner was entitled to be upgraded as Special Sub Inspector even if the date of the second order of upgradation of the petitioner of the year 2002 is taken into account, the petitioner would be entitled to be upgraded as a Special Sub Inspector in the year 2012 before his superannuation. Therefore, he would pray this Court to set aside the communication impugned in this Writ Petition and direct the respondent to upgrade the petitioner as Special Sub Inspector with effect from 01.01.2010 and grant him all consequential service and monetary benefits on par with his juniors.

6.Countering his arguments, Mr.R.Neethi Perumal, learned Government Advocate appearing for the respondent would submit that the order that is impugned in the Writ Petition cannot be said to be an order that had been passed by the respondent. It is a communication sent by the respondent to the Government Pleader which in any manner cannot be said to be an order that had been passed by the respondent. Therefore, he would submit that the Writ Petition itself is not maintainable. He would further contend that on the merits of the case, the petitioner is not entitled for any upgradation as claimed by him. He would submit that on the date of his upgradation in the year 2000, the petitioner was facing Departmental Proceedings which had not concluded and which came to be concluded only after his



upgradation and therefore, his upgradation had been erroneously made and recalled, the said order had not been challenged by the petitioner. That part, the petitioner had been upgraded in the year 2002 and he had not made any claim of his upgradation all these years. Therefore, he had been rightly denied the upgradation as Head Constable and therefore his case cannot be considered to grant upgradation as a Special Sub Inspector as he had not completed the qualifying service for upgradation of Special Sub Inspector.

7.I have heard the submissions made by the respective counsel appearing on either side and perused the materials available on record.

8.It is true that the petitioner had not challenged the order of cancellation of upgradation made in the year 2000. The petitioner had been upgraded as Head Constable in the year 2002 which fact has also not been disputed by the respective counsel.

9.In view of the guidelines for upgradation of a person in Police Service and who is holding the post and who had been in service for 25 years of service with 10 years of service as Head Constable are sought to be upgraded as a Special Sub Inspector considering the fact that there was stagnancy in the post of Head



Constables without being promoted to the post of Sub Inspector. The petitioner had been admittedly appointed as a Grade – II Police Constable in the year 1979 and thereafter was also upgraded as a Grade – I Police Constable in the year 1995 and was upgraded as Head Constable in the year 2002. The petitioner on the date of filing this Writ Petition had put in more than 25 years of service in the Police Department and during the pendency of the Writ Petition had also completed 10 years of service as Head Constable which would definitely entitle him to the cadre of a Special Sub Inspector. However, till the date of his Superannuation, the petitioner had not been upgraded as Special Sub Inspector and had been superannuated only as Head Constable.

10.Considering the fact that the petitioner had superannuated much earlier, the respondent is directed to notionally fix the date of upgradation of the petitioner as a Special Sub Inspector on his completing 10 years of service as Head Constable and also fix his pay notionally in the cadre of Special Sub Inspector on and from that date and also work out his terminal benefits on the same aspect and pay him the arrears of terminal benefits from the date of superannuation based on the aforesaid calculation.



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11. With the aforesaid directions, this Writ Petition is disposed of. There shall be no order as to costs.

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Index: Yes/No
Speaking Order/Non-Speaking Order
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To

The Superintendent of Police,
Tiruvallur District.



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K.KUMARESH BABU, J.

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