



W.P.No.30638 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.09.2023

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.30638 of 2012

Loganathan

... Petitioner

Vs.

- 1.The Secretary to Government,
Home(Police II) Department,
Fort St.George, Chennai-9
- 2.The Director General of Police(L&O),
Dr.Radhakrishnan Salai,
Mylapore, Chennai-4
- 3.The Deputy Inspector General of Police,
Coimbatore Range,
Coimbatore
- 4.The Superintendent of Police,
Coimbatore Rural District Coimbatore

... Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India praying to issue Writ of Mandamus directing the respondents to consider the claim of the petitioner for upgradation as Special Sub Inspector of Police at par with his juniors who have been promoted on 03.09.2007 and upgrade him as Special Sub Inspector of Police and grant him all consequential service and monetary benefits.



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For Petitioner : Mr.K.Venkataramani,
Senior Counsel
for Mr.M.Muthappan

For Respondents : Mr.V.Veluchamy,
Additional Government Pleader

ORDER

This writ petition has been filed for direction to the respondents to consider the claim of the petitioner for upgradation as Special Sub Inspector of Police on par with his juniors who have been promoted on 03.09.2007.

2. The petitioner had entered into service as a directly recruited Grade-II Police Constable in Coimbatore City Armed Reserve in the year 1975. Thereafter, he was transferred to Law and Order in the year 1979. He was upgraded as Grade-I Police Constable in the year 1996. He was granted accelerated promotion for apprehending the terrorist Immam Ali and promoted as Head Constable in the year 1996. Thereafter, due to attainment of age of superannuation, he was retired from service on 31.10.2011. He had attained sufficient seniority and merit for



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consideration of his claim for upgradation as Special Sub Inspector of Police in the panel of the year 2006. Due to administrative delay, his batchmates and juniors were granted upgradation with effect from 02.09.2007. However, the petitioner's case was not considered on 02.09.2007. When the petitioner was directed to appear before the Superintendent of Police, Coimbatore Rural District by the communication dated 03.09.2007 and when the petitioner appeared, he was informed that he will get the promotion order. However, he was placed under suspension on 04.09.2007 pending enquiry into grave charges. Thereafter, the order of suspension was revoked on 17.09.2007. However, the petitioner's batchmates and juniors who had appeared along with the petitioner were given upgradation as Special Sub Inspector of Police on 03.09.2007 itself. Thereafter, the petitioner was served with charge memo dated 16.01.2008.

2.1 After conducting enquiry, he was imposed with punishment of stoppage of increment for period of one year. The petitioner filed appeal aggrieved by the punishment imposed on him and the appellate



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authority i.e. the first respondent by order dated 30.04.2011, modified the punishment into 'one of black mark'. However, the punishment imposed on the petitioner cannot stand in the way of denying upgradation as Special Sub Inspector of Police. As on 03.09.2007, the petitioner was neither under suspension nor facing formulated charges nor having currency of punishment. He was suspended only from 04.09.2007 and thereafter, he was reinstated into service on 17.09.2007. Therefore, the petitioner submitted representation seeking upgradation to the post of Special Sub Inspector of Police.

3. On perusal of the counter filed by the fourth respondent revealed that the petitioner was not considered for upgradation as Special Sub Inspector of Police on par with his batchmates for the reason that he had committed the delinquency of “for having failure to inform the fact of information received through one, Senthil on 02.09.2007 at about 6.30 hours to his superiors with regards to the dead body of a child buried within the Mettupalayam Police Station limits” while the petitioner was in charge of the station from 01.09.2007 at about 8.00 hrs to 02.09.2007



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at about 8.00 hrs. He was suspended from service with effect from 04.09.2007. In pursuant to his suspension, he was served with charge memo under rule 3(b) of Tamilnadu Police Subordinate Service(Discipline & Appeal) Rules, 1955 in PR.No.18 of 2008. After enquiry, he was imposed punishment of stoppage of increment for one year. Thereafter, he preferred appeal and in the appeal, punishment was modified into 'that of black mark'. Therefore, the currency period of punishment of 'black mark' was completed on 10.05.2011 and accordingly, the petitioner was upgraded as Special Sub Inspector of Police with effect from 01.06.2011 and he attained age of superannuation on 31.10.2011.

4. Admittedly, his juniors and his batchmates who appeared along with the petitioner before the Superintendent of Police, Coimbatore Rural District were given upgradation as Special Sub Inspector of Police on 03.09.2007. Though the petitioner is entitled to be promoted with effect from to 02.03.2006, he was not given upgradation to the post of Special Sub Inspector of Police due to administrative delay. However,



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the petitioner and others were recommended for inclusion for upgradation to the post of Special Sub Inspector of Police and they were directed to appear before the Deputy Inspector General of Police on 03.09.2007. However, the petitioner was not given upgradation to the post of Special Sub Inspector of Police. That apart, on 03.09.2007 there was no suspension order and the petitioner was not suffered with punishment order. He was not having any charges and also he was not having any currency of punishment. These are all the criteria for denying the upgradation. Further, the petitioner was placed under suspension only on 04.09.2007. Therefore, there is absolutely no impediment in promoting the petitioner to the post of Special Sub Inspector of Police on par with his juniors as early as on 03.09.2007. Further, the punishment imposed on the petitioner was also modified to the effect 'that of black mark' by the appellate authority.

5. In view of the above, the petitioner is entitled for upgradation to the post of Special Sub Inspector of Police on par with his juniors i.e. from 03.09.2007. Accordingly, the third and fourth



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respondents are directed to notionally upgrade the petitioner as Special Sub Inspector of Police from 03.09.2007 and grant all consequential service and monetary benefits within a period of twelve weeks from the date of receipt of copy of this order.

6. With the above direction, this writ petition is allowed. There shall be no order as to costs.

05.09.2023

Internet: Yes
Index: Yes/No
Speaking/Non-speaking order
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G.K.ILANTHIRAIYAN, J.

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To

- 1.The Secretary to Government,
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- 2.The Director General of Police(L&O),
Dr.Radhakrishnan Salai,
Mylapore, Chennai-4
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Coimbatore Range,
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- 4.The Superintendent of Police,
Coimbatore Rural District Coimbatore
5. The Government Advocate,
High Court, Madras.

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