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W.P.No.28925 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.11.2023

CORAM:

THE HON'BLE Mrs.JUSTICE **V.BHAVANI SUBBAROYAN**

W.P.No.28925 of 2018
&
W.M.P.No.33806 of 2018

P.Kannathasan

... Petitioner

Vs.

1.The Director General of Police
Tamil Nadu, Chennai-600 004

2.The Deputy Inspector-General of Police
Salem Range,Salem

3.The Superintendent of Police
Salem District, Salem

... Respondents

Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus directing the respondents to revise the date of upgradation of the petitioner as Head Constable in Salem District Unit, with effect from 16.06.2008 and on that basis and to grant upgradation to him as Special Sub-Inspector of Police with effect from 01.07.2018 and to grant all consequential benefits to the petitioner within a limited time frame as deem fit.

For Petitioner : Ms.Ranjini
for
Mr.M.Ravi

For Respondents : Mr.K.H.Ravikumar, Govt.Advocate



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ORDER

The Writ Petition has been filed for an issuance of a Writ of Mandamus directing the respondents to revise the date of upgradation of the petitioner as Head Constable in Salem District Unit, with effect from 16.06.2008 and on that basis and to grant upgradation to him as Special Sub-Inspector of Police with effect from 01.07.2018 and to grant all consequential benefits to the petitioner.

2. The Writ Petition was filed in the year 2018. The case of the petitioner is that he joined as Police Constable, Grade II on 16.06.1993 in Salem District Unit and Police Cionstable Grade U with effect from 16.06.2003 and as Head Constable with effect from 16.06.2008 and as Special Sub Inspector of Police from 16.06.2018. While the petitioner was serving as Railway Police Constable at Salem, disciplinary proceedings under Rule 3(a) of the Tamil Nadu Police Subordinate Service (D&A) Rules was initiated in P.R.No.28/2003 and a show cause notice wassissued by the Superintendent of Police, Railway Police Salem on 14.01.2004 with regard to alleged indisciplinary conduct and neglect of duty in having failed to take action against the accused an illicit liquor smuggler who smuggled ddliquor in Train No.271 from Bangalore to Salem on 04.05.2003 at 13.00 hrs and letting off the accused, after agetting bribe. The said proceedings lead to the order dated 23.02.2004 in PR.No.28/2003 passed by the Superintendent of Police, Railways, Chennai-8 imposing penalty of “postponement of next increment for a period of two



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years with cumulative effect”. The appeal filed by the petitioner was rejected by the

DIG of Police, Railway, Chennai-8 in Pro.RC.No.A2/8636/2004 dated 11.01.2005.

Review petition filed before the Inspector General of Police, Railways was also rejected in Pro.C.No.3909/A2/2005 dated 13.06.2005. Petitioner filed mercy petition before the DIG of Police, Chennai-4, who by order in Pro.No.99708/AD IV(2)/2010 dated 31.01.2011 modified the punishment as “Deferred black mark for six months” from the date of original order.

3. Subsequently, the Superintendent of Police Salem, in and by D.O.No.1198/13 (CNO.H2/50140/350/13) dated 01.11.2013 has ordered cancellation of punishment of “Deferred Black Mark for six months' as the petitioner have not come to any adverse notice during the deferment period. Due to the punishment imposed by Superintendent of Police, Salem, in PR 28/2003 dated 23.02.2004, my upgradation to the post of Head Constable was delayed by one year. Since the punishment was modified as “Deferred Black Mark for six months” and since that was also cancelled the petitioner is entitled to revision of upgradation in the post of Head Constable with effect from 16.06.2008 on par with his batchmates and juniors and accordingly entitled for upgradation as Special Sub Inspector of Police with effect from 01.07.2018.

4. Learned counsel for the petitioner would further submit that Superintendent



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of Police, Salem in and by D.O.No.(CNo.A2/20878/2018) dated 04.07.2018 has ordered the upgradation of Head Constables as Special Sub Inspector of Police with effect from 01.07.2018, Petitioner would further submit that juniors to the petitioner have been promoted as Special Sub Inspectors of Police. Since the modified punishment has also been cancelled, the stigma against the petitioner stands wiped out and the petitioner is entitled for revised upgradation to the post of Special Sub Inspector of Police with effect from 01.07.2018. The petitioner has given a representation in the year 2014 but nothing has happened and the petitioner has been omitted. In this regard, the petitioner submitted a representation on 31.07.2018 to the 1st respondent/DGP requesting to grant upgradation to the petitioner as SSI with effect from 01.07.2018 as granted to his batchmates in the order dated 04.07.2018. Hence, the present Writ Petition.

5. Heard Ms.Ranjini for Mr.M.Ravi, learned counsel for the petitioner and Mr.K.H.Ravikumar, learned Government Advocate for the respondents 1 to 3.

6. The learned Government Advocate appearing for the respondents 1 to 3 has filed a detailed counter affidavit and submitted that the deferment period was in force from 06.08.2003 to 05.02.2004 and on completion of the punishment period, the petitioner was promoted and upgraded as Grade I Police Constable with effect from 06.02.2004 and on completion of 5 years of service in the post of Grade I Police



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Constable the petitioner was promoted/upgraded as Head Constable with effect from 06.02.2009 and further as he was undergoing punishment of deferred black mark for six months from 06.08.2003 to 05.02.2004 and hence the petitioner was promoted as Grade I Police Constable with effect from 06.02.2004 and he was upgraded as Head Constable on 16.06.2008 and as Special Sub Inspector of Police on 01.07.2018. Learned Government Advocate would further submit the petitioner was not considered for upgradation as Special Sub Inspector of Police, since he has not completed 10 years of service as Head Constable as his date of upgradation as Head Constable is 06.02.2009 which is the criteria for upgradation to the post of Special Sub Inspector of Police, further petitioner is eligible for upgradation as Special Sub Inspector of Police only on 06.02.2019 which will be taken into consideration on the due date. In this regard, the learned Government Advocate produced a official communication from the Superintendent of Police, Salem District wherein it is stated that the petitioner was appointed as Grade II Police Constable on 16.06.1993 and upgraded as Grade I PC with effect from 06.02.2004, as the deferment period was in force from 06.08.2003 to 05.02.2004 and on completion of 5 years of service in the post of Grade I Police Constable the petitioner was promoted as Head Constable with effect from 06.02.2009 was taken into consideration Hence, the petitioner was upgraded as Special Sub Inspector of Police on 01.03.2019 on completion of 10 years of service in the post of Head Constable as per the Government Orders in force by order dated 29.05.2019. As the petitioner's case has been considered, nothing



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survives for further consideration by this Court.

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7. In view of the above said position, nothing survives for further adjudication by this Court and hence the Writ Petition is closed. No costs. Consequently, connected miscellaneous petition is closed.

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Index:Yes/No

Internet:Yes/No

Speaking / Nonspeaking order

kpr

To

1.The Director General of Police
Tamil Nadu, Chennai-600 004

2.The Deputy Inspector-General of Police
Salem Range,Salem

3.The Superintendent of Police
Salem District, Salem



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V.BHAVANI SUBBAROYAN J.

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