



W.A.(MD).No.595 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 05.10.2023

CORAM

**THE HON'BLE MR JUSTICE S.M.SUBRAMANIAM
AND
THE HON'BLE MR JUSTICE V.LAKSHMINARAYANAN**

W.A.(MD).No.595 of 2019
and
C.M.P.(MD).No.4867 of 2019

The Commissioner of Police,
Madurai City,
Madurai.

.. Appellant/Respondent

Vs.

I.Jayaveeranan

.. Respondent/Writ Petitioner

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, to appeal the order passed in W.P.(MD).No.1206 of 2019 dated 27.03.2019.

For Appellant : Mr.N.Satheesh Kumar
Additional Government Pleader

For Respondent : Mr.F.Deepak



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JUDGMENT

(Judgment of the Court was delivered by S.M.SUBRAMANIAM,J.)

The Writ Appeal on hand has been instituted challenging the order dated 27.03.2019 passed in W.P.(MD).No.1206 of 2019.

2. The respondent/writ petitioner is working as a Grade-I Police Constable. It is not in dispute that a criminal case was registered against the writ petitioner in Crime No.397/2016. Simultaneously, departmental proceedings was initiated under Rule 3(b) of the Tamil Nadu Police Subordinate Service (Discipline and Appeal) Rules. During the relevant point of time, when the Writ Petition was filed, the writ petitioner made a submission before the learned Single Judge that the criminal proceedings initiated against the writ petitioner was stayed by this Court. Further, the departmental proceedings was also ordered to be kept in abeyance. Considering the fact that the criminal case was stayed at the FIR stage, the learned Single Judge directed the appellant herein to include the name of the writ petitioner in the panel for promotion to the post of Head Constable. Thus, the Writ Appeal is preferred.



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3. Promotion *per se* cannot be claimed as an absolute right.

Consideration for promotion is a fundamental right of an employee. All promotions are to be made scrupulously by following the procedures as contemplated under the Service Rules in force. The pendency of disciplinary proceedings, more specifically under Rule 3(b) of the Police Subordinate Service Rules, is a bar for grant of promotion. The pendency of a criminal case is also a bar for promotion. In the present case, the learned Additional Government Pleader appearing for the appellant brought to our notice that the Criminal Original Petition filed by the respondent, challenging the FIR registered in Crime No.397/2016, was disposed of by this Court on 21.01.2020.

4. That apart, the departmental disciplinary proceedings initiated against the respondent is also pending and charge memo was issued to the respondent under Rule 3(b) of the Tamil Nadu Police Subordinate Service (Discipline and Appeal) Rules. Thus, the respondent is not eligible for promotion to the post of Head Constable. However, the case of the respondent shall be considered after the disposal of the criminal case and



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the departmental disciplinary proceedings, subject to his exoneration and fulfilling other requirements and conditions prescribed for grant of promotion.

5. Accordingly, the order dated 27.03.2019 passed in W.P.(MD). No.1206 of 2019 is set aside and the Writ Appeal stands allowed. There shall be no order as to costs. Consequently, connected miscellaneous petition stands closed.

(S.M.S.,J.) (V.L.N.,J.)
05.10.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
Lm

To
The Commissioner of Police,
Madurai City,
Madurai.



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