



W.P.(MD)No.16322 of 2019

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.01.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.16322 of 2019

and

W.M.P(MD)No. 12979 of 2019

P. Nagaraj

... Petitioner

Vs.

1. The Director General of Police (Law & Order)
Chennai.
2. The Additional Director General of Police (Law & Order),
Chennai.
3. The Deputy Inspector General of Police,
Trichy Range, Trichy District.
4. The Superintendent of Police,
Karur District.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of ***Writ of Certiorarified Mandamus***, calling for the records pertaining to the impugned order of the 3rd respondent in his proceedings, hence, the petitioner challenging the 3rd respondent impugned order in Na.Ka.No.B2/Tha.Pa12/14 dated 23.09.2014 and the proceedings at 3rd



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respondent Rc No.ConII(1) / 36182/2010 dated 12.10.2017 and the proceedings of the 1st respondent Rc No.Con II(1) / 36182/2010 dated 04.04.2019 and quash the same and consequently directing the respondents to regularize the increment without postponing and pay with all the monetary benefits to the petitioner.

For Petitioner : Mr.S.Ram Sundar Vijay Raj, for
M/s.Veera Associates

For Respondents : Mr.P.Thambidurai,
Government Advocate

ORDER

This Writ Petition has been filed challenging the impugned order of the 3rd respondent, dated 23.09.2014 in Na.Ka.No.B2/Tha.Pa12/14 and the proceedings at 3rd respondent Rc.No.ConII(1)/36182/2010, dated 12.10.2017 and the proceedings of the 1st respondent Rc.No.Con.II(1)/36182/2010, dated 04.04.2019 and also sought for a consequential direction to the respondents to regularize the increment without postponing and pay with all the monetary benefits to the petitioner.

2. Heard Mr.S.Ram Sundar Vijay Raj, for M/s.Veera Associates, learned counsel appearing for the petitioner and Mr.P.Thambidurai, learned



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Government Advocate appearing for the respondents. Perused the material documents available on records.

3. The petitioner was appointed as Grade II Police Constable on 24.05.1999 through USRB recruitment, Thoothukudi. In the year 2000, he was transferred to VII Battalion, Palani, within the Armed Reserve, Karur District, from October 2004 onwards. The petitioner was issued a charge memo, dated 22.07.2011 for the delinquency occurred from 01.01.2009 to 29.01.2009.

4. The charge against the petitioner is that, the petitioner has not made proper entries in the register, the petitioner has received bribe on behalf of his higher authorities and gave the amount to the higher authorities. In the meanwhile, FIR in Crime No.1 of 2009, dated 29.01.2009 was registered and the case was registered as Special Case No.132 of 2011 on the file of the learned Special Court (Vigilance & Anti-Corruption) Trichy, dated 26.02.2013. Hence, the petitioner was suspended from service on 30.01.2009. Subsequently, the petitioner was acquitted by the Special Court and he was reinstated back into service on 22.04.2013.



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5. In the meanwhile, charges framed against the petitioner were held to be proved through the enquiry proceedings and the petitioner was imposed punishment of stoppage of increment without cumulative effect. Now the claim of the petitioner is that he was deprived of deemed upgradation to the post of Grade I Constable on completion of 10 years, which the petitioner is entitled to deemed upgradation on 01.06.2009.

6. The contention of the petitioner is, even though the charges were framed against the petitioner as early as 2011 for the delinquency occurred in the year 2009. The respondents have imposed punishment in the year 2014, thereby deprived the upgradation all these years. The charge memo was issued in the year 2011 only. In such circumstances, the petitioner is entitled for upgradation on completion of 10 years.

7. However, the learned Government appearing for the respondents submitted that, on 29.01.2009, the FIR was registered against the petitioner and hence, he was not granted upgradation. Even, if the case of the respondents ought to be accepted, all the proceedings were taken after 2009 only. Hence, the



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petitioner is entitled for upgradation of Grade I Police Constable as on 01.06.2009. Moreover, the said criminal proceedings ended up in acquittal. Therefore, this Court is of the considered opinion that the petitioner is entitled for deemed promotion as on 01.06.2009.

8. Accordingly, the impugned order is set aside and the respondents are directed to grant upgradation to the petitioner as stated above, within a period of eight weeks from the date of receipt of a copy of the order, with consequential benefits which is applicable to the petitioner.

9. With the above observations, this Writ Petition is allowed. No Costs. Consequently, connected miscellaneous petition is closed.

Index : Yes / No
Internet : Yes
ksa

04.01.2023



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To

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Chennai.
2. The Additional Director General of Police (Law & Order),
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3. The Deputy Inspector General of Police,
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S.SRIMATHY, J

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**Order made in
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