



W.P.(MD) No.21083 of 2016

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDERS RESERVED ON : 17.07.2023

ORDERS PRONOUNCED ON : 26.07.2023

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THE HON'BLE MR.JUSTICE BATTU DEVANAND

W.P.(MD) No.21083 of 2016

and

W.M.P.(MD) Nos.15072 and 15073 of 2016

B.Jagadeesan

... Petitioner

Vs.

The Superintendent of Police,
District Police Office,
Thanjavur District @ Thanjavur.

... Respondent

Prayer: Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorarified Mandamus, to call for the records relating to the order passed by the respondent herein in his D.O.959/2016, R.C.No.A2/36779/2016 dated 07.10.2016 and quash the same and consequently direct the respondent herein to grant all the service and monetary benefits to the petitioner.

For Petitioner : Ms.M.Padmavathy

For Respondent : Mr.A.Kannan
Additional Government Pleader



W.P.(MD) No.21083 of 2016

WEB COPY

ORDER

This writ petition has been filed against the order passed by the respondent herein reverting the petitioner from the cadre of Special Sub Inspector of Police to Head Constable without following due process of law.

2. Heard the learned counsel for the petitioner and the learned Additional Government Pleader appearing for the respondent.

3. The learned counsel for the petitioner would submit that the petitioner joined the service as Grade-II Police Constable on 01.04.1986 and was promoted as Grade-I Police Constable on 01.04.1997. He was further promoted as Head Constable with effect from 01.04.2003 and as a Special Sub Inspector of Police with effect from 01.04.2013. The learned counsel submits that as per G.O.Ms.No.15, Home (Pol.V) Department, dated 07.01.2010, the Government has delegated the powers to the Superintendent of Police for promoting the Grade-II Police Constables, on completion of 10 years of service, as Grade-I Police Constables and Grade-I Police Constables to be promoted as Head Constables on completion of 5 years of



W.P.(MD) No.21083 of 2016

service as Grade-I Police Constables. The Deputy Inspectors General of Police and Commissioners of Police were delegated powers for granting promotion as Special Sub Inspector of Police on completion of 25 years of service, out of which 10 years of service have to be completed as Head Constables.

4. The learned counsel submits that the respondent herein, in accordance with the orders of the Deputy Inspector General of Police, Thanjavur Range, had promoted the petitioner as Special Sub Inspector of Police with effect from 01.04.2013 *vide* order in D.O.854/2014, dated 09.05.2014. The petitioner joined in the said post and working for the last 2½ years. The respondent herein has passed order in D.O.959/2016, R.C.No.A2/36779/2016, dated 07.10.2016 revising the date of upgradation as Head Constable. In the said order, the upgradation of the petitioner as Head Constable was revised with effect from 01.07.2007 and it is further observed in the said order that action will be taken to cancel the upgradation as Special Sub Inspector of Police. The said order dated 07.10.2016 of the respondent is impugned in this writ petition.



W.P.(MD) No.21083 of 2016

WEB COPY

5. In the impugned order, it is stated that the punishment of postponement of increment for a period of two years with cumulative effect awarded on 25.02.2004 was in currency till 30th June, 2007 and therefore, the petitioner is entitled for upgradation as Head Constable with effect from 01.07.2007.

6. The learned counsel for the petitioner submits that the respondent had granted upgradation as Head Constable to the petitioner with effect from 01.04.2003 on his own and not at the request of the petitioner. The learned counsel finally submits that the order impugned herein has been passed without affording any opportunity or issuing show cause notice as contemplated under the rules and as such, it is liable to be set aside, as it is in violation of principles of natural justice.

7. On perusal of the record, it appears that this writ petition was listed for admission on 03.11.2016 and adjourned for four weeks for filing counter. At the time of admission, the Court passed the following order:

“The impugned order is challenged on the



W.P.(MD) No.21083 of 2016

ground that the order has been passed without following the principles of natural justice.

If the order had not been implemented so far, there shall not be revocation of promotion until further orders.

There shall be an order of interim stay until further orders in respect of recovery.”

8. On perusal of the record, it appears that from the year 2016 to till date, the respondent did not choose to file his counter. Non-filing of the counter by the respondent has to be construed by this Court as no counter for the respondent to oppose the contentions of the petitioner.

9. Besides this, on perusal of the impugned order, it appears that admittedly, the respondent passed the impugned order in this writ petition without following the principles of natural justice. Admittedly, no notice was issued to the petitioner calling for his explanation, or no opportunity was provided to the petitioner to put forth his case before passing the impugned order, which is seriously affecting the petitioner. On this sole ground, this Court is of the opinion that the respondent has passed the



W.P.(MD) No.21083 of 2016

impugned order against the principles of natural justice and as such, it is liable to be set aside.

10. Accordingly, this Writ Petition is allowed and the order impugned in this writ petition is set aside.

11. However, it is open to the respondent to take appropriate steps, if so advised by following due process of law.

12. No costs.

13. Consequently, connected miscellaneous petitions are closed.

26.07.2022

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

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W.P.(MD) No.21083 of 2016

To

The Superintendent of Police,
District Police Office,
Thanjavur District @ Thanjavur.



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W.P.(MD) No.21083 of 2016

BATTU DEVANAND, J.

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Pre-delivery Order made in
W.P.(MD) No.21083 of 2016

26.07.2023