



W.P.No.20729 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.02.2024

CORAM :
THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

Writ Petition No.20729 of 2012

G.Balasubramanian

... Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. by the Secretary to Government,
Home Department,
Fort St.George,
Chennai – 9.

2.The Director General of Police,
Mylapore,
Chennai – 4.

3.The Commissioner of Police,
Egmore,
Chennai – 8.

... Respondents

Writ Petition filed under Article 226 of Constitution of India, praying for issuance of Writ of Certiorarified Mandamus calling for the records in pursuant to the impugned order passed by the third respondent in proceeding Rc.No.Estt 111 (1)/69/7530/2010, CPO No.735/2010 dated 16.03.2010 and quash the same and consequently direct the respondents 2 & 3 to fix the seniority and grant all consequential promotions with all monetary benefits.



W.P.No.20729 of 2012

WEB COPY For Petitioner : Mr.Prem Narayan

For Respondents : Mr.M.Rajendiran,
Additional Government Pleader

ORDER

The petitioner has filed this writ petition to call for the records in pursuant to the impugned order passed by the third respondent in proceeding Rc.No.Estt 111 (1)/69/7530/2010, CPO No.735/2010 dated 16.03.2010 and quash the same and consequently direct the respondents 2 & 3 to fix the seniority and grant all consequential promotions with all monetary benefits.

2. When the matter was came up for hearing today, learned Additional Government Pleader appearing for the respondents would submit that the matter is no longer res-integra and the same is covered by the dictum laid down by this Court in W.A.Nos.47 of 2016 etc., Batch dated 30.08.2019. The Division Bench of this Court while dealing with the same issue held as follows and the relevant paragraph Nos.11, 12, 13 and 14 are extracted hereunder:-

“11. The Government Orders must contain a clear indication for giving it retrospective operation. It would not be



WEB COPY



W.P.No.20729 of 2012

possible to give an interpretation to the Government Orders by treating it as one giving retrospective effect, unless there is a clear recital with regard to such retrospectivity. There is no question of bringing the theory of deemed retrospective operation of a Government Order, when the relevant order is crystal clear that the intention is only to give effect prospectively. The interpretative process could not be undertaken to give a different meaning or effect to the Government Orders.

12. The Hon'ble Supreme Court in Union of India vs. Shankar Law Soni & Anr., 2010(3) Scale 774, observed that a decision to grant a certain concession or a certain benefit and the conditions for their grant are a matter for the administrators alone and the court should not interfere in the matter on the premise that it was of the opinion that some of the conditions imposed were not justified.

13. The policemen are claiming promotion as Grade I Police Constable, Head Constable and Special Sub Inspector of Police, immediately on completion of 10, 15 and 25 years of service. There was no indication in any of the Government Orders, more particularly in G.O.Ms.No.15, Home (Pol.V) Department, dated 7 January 2010 to claim deemed upgradation or retrospective upgradation. The policemen are interpreting the Government Orders as if there was a decision in their favour to grant retrospective upgradation by counting the entire service, right from the initial entry. The Government made it very clear in the relevant orders referred to above that in order to claim upgradation as Special Inspector of Police, policemen must have completed 10 years of service in the rank of Head



WEB COPY



W.P.No.20729 of 2012

Constable. The policemen wanted the Government Orders to be interpreted in such a way that upon completing a fixed period, they would get upgradation as Grade I Constable automatically and thereafter, as Head Constable and ultimately as Special Sub Inspector of Police. No such indication is found in any of the Government Orders extracted above. We are therefore of the view that the appellants are correct in their contention that the writ court committed a fundamental error while interpreting the Government Orders and the same resulted in allowing the Writ Petitions filed by the respondents.

14. We fully concur with the view expressed by the Madurai Bench of this Court in its order in R.A.(MD) Nos.70 of 205 etc. batch.”

3. In view of the ratio laid down by this Court in W.A.Nos.47 of 2016 etc., Batch dated 30.08.2019, order passed by the third respondent in proceeding Rc.No.Estt 111 (1)/69/7530/2010, CPO No.735/2010 dated 16.03.2010 does not warrant any interference by this Court and the same is hereby confirmed.

4. In the result, this writ petition stands dismissed. No costs.

14.02.2024



W.P.No.20729 of 2012

Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes/No

To:

- 1.The Secretary to Government,
Home Department,
Fort St.George,
Chennai – 9.
- 2.The Director General of Police,
Mylapore,
Chennai – 4.
- 3.The Commissioner of Police,
Egmore,
Chennai – 8.



WEB COPY



W.P.No.20729 of 2012

J.SATHYA NARAYANA PRASAD,J.

vm

W.P.No.20729 of 2012



WEB COPY



W.P.No.20729 of 2012

14.02.2024