



W.P.No.26773 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.06.2024

CORAM:

THE HONOURABLE MRS. JUSTICE R.KALAIMATHI

W.P.No.26773 of 2012

and

M.P.No.2 of 2012

C.Thirunavukarasu

... Petitioner

Vs.

1.Govt. Of Tamil Nadu
Rep.by Secretary to Government,
Home Department,
Secretariat, Chennai-600 009.

2. The Director General of Police,
Chennai-600 004.

3. The Inspector General and
Commissioner of Police,
Salem City.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the order in Pro.Na.Ka.No.A3/129/9080/2011, dated 30.08.2011 of the third respondent, to quash the same to the limited extent of (i) dates of commencement and completion of probation period in the post of Head Constable (ii) denial of monetary benefits with effect from 15.03.2005 till 15.05.2005 i.e., the period during which the petitioner was prevented from discharging service as head Constable and declare that the petitioner has completed his probation as on



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13.03.2007 and to take into account the service from 15.03.2005 onwards for all other purpose including refixation of seniority and grant of promotion as Sub-Inspector of Police and to grant him all monetary benefits attached to post of Head Constable with effect from 25.03.2005 itself.

For Petitioner : Mrs.Fathima Hussain

For Respondents : Mrs.C.Sangamithirai

ORDER

The proceedings in Pro.Na.Ka.No.A3/129/9080/2011, dated 30.08.2011, passed by the 3rd respondent herein is under challenge.

2. The petitioner C.Thirunavukarasu, S/o.Chinna Kesavan submits that he was initially appointed as Gr.II Police Constable on 25.10.1993. He was promoted as Gr.I Police Constable and as Head Constable. He filed a writ petition in W.P.No.17509 of 2008. Wherein, by an order dated 29.06.2009, direction was given to dispose of his representation.

3. In compliance to the direction issued by this Court, the petitioner who was serving in the Armed Reserve Motor Wing along with two others, were promoted as Head Constables w.e.f.15.03.2005 i.e., on par with his batch mates. HC 745 Sekar, HC 714 Palanisamy. They were



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promoted in the Armed Reserve, Motor Vehicle Wing, Salem City as per the Chief Office Orders issued in CPO No.195/2005 in C.No.A3/7958/2005/2005 dated 15.03.2005.

4. It is further submitted that in the said order, C.P.O.No.08/2010 dated 06.01.2011 issued by the third respondent herein, it has been stated that the pay and allowances would be fixed with effect from 15.03.2005 with monetary effect from 06.01.2011.

5. It is further submitted that similarly placed candidates namely O.Baskaran, D.Krishnan, P.Muthusamy Head Constable, Salem City, approached this Court under similar circumstances and the ^{1st} respondent issued G.O.Ms.No.668/Home/Police(v) Department, dated 26.07.2010 in and by which Government accepted the request of the Director General of Police and implemented the orders of this Court dated 25.06.2009 in W.P.Nos.17509 to 17511 of 2009. When the similarly placed Police have been extended the benefit, the petitioner was not given the same benefit. Hence, this writ petition.

6. Heard Ms.Fathima Hussain, learned counsel appearing for the



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petitioner and Mrs.C.Sangamithirai, learned Special Government Pleader appearing for the respondents.

7. The learned Special Government Pleader contended that the seniority of Police personnel in Armed Reserve Company is different from Motor Transport and in the Motor Transport, separate seniority list is being maintained. However, in view of the orders of this Court, the seniority of the petitioner was revised and his date of promotion as Head Constable was declared on 15.03.2005 on par with his batch mates. At the same time, arrears cannot be allowed for the period during which such persons have not acted in the higher post.

8. Contrary to the above said details, as per the orders of this Court, the benefits sought for by the petitioner herein were extended to Thirunavukkarasu, Ravi and Narayanan Head Constable of Salem City in W.P.Nos.17509 to 17511 of 2008. Based on G.O.Ms.No.1623, Home (Police V), Department dated 12.12.2008, the Director General of Police recommended to the Government to extend similar relief to the petitioners viz., Thiru.Thirunavukkarasu, Thiru.Ravi and Thiru.Narayanan, Armed Reserve Motor Transport Head Constables,



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Salem City. As per the orders of the Government, the Director General of Police extended similar reliefs to M.K.Kalatharan, and C.Ragupathy, Head constables, Motor Transport Wing, Chennai, based on the orders passed by this Court in W.P.No.25043 of 2002, dated 18.09.2007.

9. It is seen from the above said Government Order, the above said persons were extended the benefits as per the orders passed in the above said writ petition dated 18.09.2007. From the memo dated 04.08.2011, issued by the Salem Commissionerate, Salem Corporation, in Na.Ka.A3/12699/2011 for the above said three Head Constables O.Baskaran, D.Krishnan, P.Muthusamy for the period from 01.01.2002 to 31.05.2011, as per the orders passed in C.No.B5/21340/2010 dated 12.10.2010, it appears that amounts have been paid to them retrospectively consequent to the promotion as Head Constable.

10. From a careful perusal of CPO.456/2010 C.No.B5/2010 issued by City Police Commissionerate, Salem City, dated 12.10.2010, it appears that the above said Baskaran, D.Krishnan and P.Muthusamy were promoted as Head Constables with effect from 01.03.2006 on par with their batch mates who were promoted in Armed Reserve CPO



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397/10, C.No.A3 4713/2009 dated 04.09.2010. However, their pay was fixed as Head Constables with effect from 01.03.2006 and the arrears for the said period were drawn and paid to them.

11. When the benefits sought for by the petitioner was extended to the above said Head Constable as mentioned supra, and the same benefits, as per the request of the petitioner was denied by impugned order dated 30.08.2011 which is a clear violation of Article 14 of the Constitution of India and the said order is bad in law. In terms of equality, the petitioner is also entitled for the benefits sought for.

12. The petitioner is promoted as Head Constable by order dated 06.01.2011, w.e.f. 15.03.2005. More specifically, the petitioner is entitled to be paid the benefits for the period from 15.03.2005 to 05.01.2011. The petitioner shall give representation in this regard to the respondents within a period of four weeks from the date of receipt of a copy of this order and the respondent shall complete the said exercise within a period of eight weeks from the date of receipt of the petitioner's representation.



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13. With the above direction, this writ petition stands allowed.

There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes / No
Neutral Citation Case : Yes / No
Speaking Order / Non-Speaking Order
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To

1. The Secretary to Government,
Govt. Of Tamil Nadu,
Home Department,
Secretariat, Chennai-600 009.
2. The Director General of Police,
Chennai-600 004.
3. The Inspector General and
Commissioner of Police,
Salem City.

R.KALAIMATHI, J.,

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