



W.P.No.30552 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.06.2024

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THE HONOURABLE Mrs. JUSTICE R.KALAIMATHI

W.P.No.30552 of 2012

S.D.Balasubramanian
...Petitioner

VS.

1. The State of Tamil Nadu,
represented by its Secretary to Government,
Home (Police IV) Department,
Fort St.George,
Chennai 600 009

2. The Director General of Police,
Dr.Radhakrishnan Salai,
Mylapore, Chennai 600 004

3. The Commissioner of Police,
Greater Chennai Police,
St.Thomas Mount,
Chennai – 16.

...Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus, calling for the records on the file of the third respondent in R.C.No.Estt.III(1)/678/131097/2012 dated 10.10.2012 and quash the same and consequently, direct the respondents to upgrade the petitioner as Special Sub Inspector of Police by including the name of the petitioner in between serial No.165 & 166 in the Annexure to the order of the 3rd



W.P.No.30552 of 2012

respondent dated 02.08.2010 with all attendant benefits, in the light of the Judgment rendered by the Hon'ble Full Bench of this Court in 2011 (3) CTC 129.

For Petitioner : Mr.S.Selvathirumurugan

For Respondents : Mrs.C.Sangamithirai

Special Government Pleader

ORDER

The order in R.C.No.Estt.III(1)/678/131097/2012 dated 10.10.2012, passed by the third respondent is under challenge, and a direction is sought for to upgrade the petitioner as Special Sub Inspector of Police by including the name of the petitioner in between serial No.165 and 166 in the Annexure of the order of the third respondent dated 02.08.2010 with all attendant benefits, in the light of the judgment rendered by the Hon'ble Full Bench of this Court in 2011 (3) CTC 129.

2. The Petitioner S.D.Balasubramanian, son of Duraipillai entered into the police service as Grade-II Police Constable on 25.10.1984. He was promoted as Grade-I Police Constable on 09.12.1997 and was promoted as Head Constable on 28.05.2004 with effect from 22.07.2002. His juniors and batchmates were upgraded as Special Sub Inspectors on



W.P.No.30552 of 2012

02.08.2010. But he was belatedly promoted as Special Sub Inspector on 01.02.2011.

3. He suffered punishment of postponement of increment for two years without cumulative effect by an order dated 04.07.2004, at the hands of the Deputy Superintendent of Police, District Crime Records, Chengai East District. The petitioner further submits that after the issuance of the order dated 02.08.2010, he submitted a representation dated 04.08.2010 and thereafter, upon the order of this Court in W.P.No.17947 of 2010, the impugned order was passed on 10.10.2012.

4. Heard Mr.S.Selvathirumurugan, learned counsel for the petitioner and Ms.C.Sangamithirai, learned Special Government Pleader for the respondents are present.

5. Ms.C.Sangamithirai, learned Special Government Pleader for the respondents would argue that as per G.O.Ms.No.15 dated 07.01.2010 after completion of 10 years in the rank of Head Constable i.e. from 25.01.2001 to 24.01.2011, he was promoted as Special Sub Inspector with effect from 01.02.2011.



W.P.No.30552 of 2012

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6. On 02.08.2010, order in R.C.No.49/37559/A-I(2)/2010-2 was passed by the Commissioner of Police in respect of Chennai Suburban Police, upgrading the constables as Special Sub Inspectors who were enlisted during the year 1981 to 1984. The petitioner entered into service as Grade-II Police Constable on 25.10.1984.

7. It appears that Writ Petition No.21631 of 2004 was filed (mentioned in the affidavit) challenging the order passed in the Disciplinary Proceedings was dismissed by this Court on 23.08.2017.

8. The petitioner suffered punishment of stoppage of increment for two years without cumulative effect by an order dated 04.07.2004. So, the currency period ends on 04.07.2006. As per Government Letter No.248 (Personnel and Administrative Reforms) Department dated 20.10.1997 and Government Letter No.18824/S/2005-2, Personnel and Administrative Reforms (S) Department dated 07.10.2005, his next promotion will be passed over for five years from the said date namely 04.07.2006. Till 04.07.2011, his name will not be considered for further promotion as per the Government Letters dated 20.10.1997 and 07.10.2005.



W.P.No.30552 of 2012

9. In The *Deputy Inspector General of Police, Thangavur Range Vs.*

V.Rani reported in (2011) 3 CTC 129, the Hon'ble Full Bench of this Court held the annexures namely the Government Letter No.248 (Personnel and Administrative Reforms) Department dated 20.10.1997 and Government Letter No.18824/S/2005-2, Personnel and Administrative Reforms (S) Department dated 07.10.2005 are not enforceable as Statutory Rules with regard to check period by imposing a embargo on the right of consideration of a Government Servant who has undergone punishment for the period of one year in case of penalty of censure and five years in other cases of minor penalties, as it has no legal basis at all.

10. As on 02.08.2010, as per the Government Letter as mentioned supra, since he underwent punishment for two years of stoppage of increment without cumulative effect, and thereafter for five years he cannot be considered for promotion. Therefore, his name was not found in the order dated 02.08.2010. However, he was promoted on 01.02.2011 as Special Sub Inspector. On 02.08.2010, he was not at all under the zone of consideration for promotion to the post of Special Sub Inspector as mentioned supra. The date of judgment in *Rani's case* is 27.04.2011.



W.P.No.30552 of 2012

11. Based on the aforesaid discussions, the petitioner has utterly failed to make out case, and the writ petition is liable to be dismissed as devoid of merits and thereby dismissed. There is no order as to costs.

26.06.2024

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

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Home (Police IV) Department,
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Chennai 600 009
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W.P.No.30552 of 2012

R.KALAIMATHI, J.
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W.P.No.30552 of 2012

26.06.2024