



W.P.No.7729 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 10.01.2024

Coram:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.7729 of 2021

and

W.M.P.No.8277 of 2021

Mr.Anthony Harry.
Inspector of Police, (Retired),
No.17, III Main Road,
K.K.R.Garden, Madhavaram,
Chennai – 600 060.

... Petitioner

-VS-

1. The Government of Tamil Nadu,
Represented by the Principal Secretary to Government,
Home (Police) Department,
Secretariat, Chennai – 600 009.

2. The Director General of Police,
Tamil Nadu, Chennai – 600 004.

... Respondents

Prayer: Writ Petition has been filed under Article 226 of the Constitution of India, pleaded to issue Writ of Certiorarified Mandamus, calling for the records relating to the orders in (i)Pro.Rc.No. 156538/AP.3(2)/2016 dated 27.04.2019 of the second Respondent, and (ii)



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Letter No.24303/Pol.2/2001-28, Home (Police.2) Dept., dated 24.12.2001 of the first respondent; to quash the same and to issue consequential direction to the respondents (1) to include the name of the petitioner in the panel of Inspectors of Police fit for appointment by recruitment by transfer as Deputy Superintendent of Police (Category-1) for the year 2000-2001, approved in G.O.Ms.No.1026 Home (Police.2) Department dated 15.10.2001, above his junior at Serial No.71 (Thiru.K.Sahadevan) and to grant notional promotion as such on par with his immediate junior and grant consequential benefits of fixation of pay, notional annual increments, etc.; (2) to regularise the period of suspension from 03.2.2000 to 15.06.2001 (including increments due on 01-04-2000 and 01-04- 2001) as duty period for all purposes; (3) to release the encashment of earned leave and unearned leave on private affairs, Special Provident Fund; (4) to grant all revised retirement and pensionary benefits as on 01.07.2009; (5) to release terminal benefits and (6) to disburse the consequential monetary benefits with 18% interest per annum, all within a limited time frame.

For Petitioner : Ms.R.Apoorva

For Respondents : Mr.T.Rajendran, AGP



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ORDER

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This Writ Petition has been filed to issue Writ of Certiorarified Mandamus, calling for the records relating to the orders in (i)Pro.Rc.No. 156538/AP.3(2)/2016 dated 27.04.2019 of the second Respondent, and (ii) Letter No.24303/Pol.2/2001-28, Home (Police.2) Dept., dated 24.12.2001 of the first respondent; to quash the same and to issue consequential direction to the respondents (1) to include the name of the petitioner in the panel of Inspectors of Police fit for appointment by recruitment by transfer as Deputy Superintendent of Police (Category-1) for the year 2000-2001, approved in G.O.Ms.No.1026 Home (Police.2) Department dated 15.10.2001, above his junior at Serial No.71 (Thiru.K.Sahadevan) and to grant notional promotion as such on par with his immediate junior and grant consequential benefits of fixation of pay, notional annual increments, etc.; (2) to regularise the period of suspension from 03.2.2000 to 15.06.2001 (including increments due on 01-04-2000 and 01-04- 2001) as duty period for all purposes; (3) to release the encashment of earned leave and unearned leave on private affairs, Special Provident Fund; (4) to grant all revised retirement and pensionary benefits as on 01.07.2009; (5) to release terminal benefits and (6) to



disburse the consequential monetary benefits with 18% interest per annum, all within a limited time frame.

2. Heard Ms.R.Apoorva, learned counsel appearing for the petitioner and Mr.M.Rajendran, learned Additional Government Pleader appearing for the respondents.

3. The petitioner has retired from service as Inspector of Police. It is alleged that his name has not been included in the promotional panel, though his junior, who has faced criminal case along with him and who had suffered punishment of censure and reduction in time scale of pay by one stage for one year, has been given with promotion subsequent to the criminal case ended in acquittal.

4. The learned counsel appearing for the petitioner submitted that the petitioner has been given a punishment of cut of Rs.100/- p.m. in pension for six months which is a minor punishment. Even though the punishment is minor, the disciplinary proceedings has been unnecessarily initiated under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and



Appeal) Rules, 1955 and the criminal case pending against him has ended in acquittal. Though the junior of the petitioner had been promoted to the post of the Deputy Superintendent of Police, the petitioner's representation was rejected. Hence, he has filed the writ petition for the aforesaid prayer.

5. The learned counsel appearing for the petitioner further submitted that due to the pendency of the disciplinary proceedings, his name has not been considered for promotion and not included in the promotion panel. The petitioner has involved in the criminal case and charges have been framed against him under Rule 3(b) of the Tamil Nadu Police Subordinate Service (Discipline and Appeal) Rules 1955 and disciplinary proceedings have also been initiated under Rule 17(b) of the Tamil Nadu Civil Services (Discipline & Appeal) Rules 1955. Though the petitioner had involved in a criminal case, a similarly placed person who also faced the same proceedings was given with promotion and he was allotted in the cadre of Deputy Superintendent of Police.

6. The petitioner has filed a Writ Petition in W.P.No.7219 of 2016 seeking a direction to the Government to pass final order on the revision



petition. He has filed another W.P.No.35622 of 2016 to quash the order of the Joint Commissioner of Police, North Zone, in the above punishment Roll and regularization of pay from 2000. After careful consideration, the Government in G.O(D)No.1182, Home (Police 4) Dept., dated 28.11.2016 have set aside the punishment and remitted the punishment Roll to the Director General of Police (HOD) to pass final orders under the Tamil Nadu Pension Rules.

7. In that case, an appropriate order could have been passed by including the name of the petitioner in the promotion panel of the respective year, during which there is no currency of punishment. It is submitted that his name has been recommended for the promotion of Deputy Superintendent of Police, but his name was not included subsequently, as he was dealt with one charge after another. The petitioner has been given with several charges and he has been filing several writ petitions challenging the charges at every point of time. Since the punishment of cut in pension of Rs.100/- p.m for a period of six months is the minor punishment, the respondents authority shall consider whether the petitioner can be given with promotion on par with his immediate junior against whom the criminal case



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was pending and for whom the promotion has been given subsequent to the acquittal.

8. In the light of the above said reasons, this Writ Petition is disposed and the respondents are directed to consider the representation of the petitioner and pass an appropriate orders in accordance with law, within a period of six weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

10.01.2024

Index :yes/no
Neutral Citation:yes/no
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To:

1. The Principal Secretary to Government,
The Government of Tamil Nadu,
Home (Police) Department,
Secretariat, Chennai – 600 009.
2. The Director General of Police,
Tamil Nadu, Chennai – 600 004.



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