



*WP(MD) No.8369 of 2024*

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**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED: 02.04.2024**

**CORAM:**

**THE HONOURABLE MS.JUSTICE R.N.MANJULA**

**W.P.(MD)No.8369 of 2024**

**and**

**WMP(MD)No.7588 of 2024**

P.Mariyappan

.. Petitioner

**Vs.**

1. The Director General of Police,  
O/o. the Director General of Police,  
Chennai.

2. The Deputy Inspector General of Police,  
Madurai Range,  
Madurai.

3. The Superintendent of Police,  
Madurai Rural Police Station,  
Madurai.

.. Respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the respondent vide C.No.PR.No.11/A2/2021 dated



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03.06.2021 and the subsequently impugned order passed by the Respondent in C.No.A2/5658192/2023 dated 12.02.2024 and quash the same as illegal and consequently direct the respondents to give promotion as Special Sub Inspector of Police to the petitioner with effect from 01.11.2020 on par with the petitioner's batchmates.

For Petitioner : Mr.B.Chakkaravarthi

For Respondents : Mr.S.Shanmugavel  
Additional Government Pleader

### **ORDER**

The writ petition has been filed for issuance of Writ of Certiorarified Mandamus, to quash the impugned orders passed by the respondents dated 03.06.2021 and 12.02.2024 respectively and consequently to direct the respondents to give promotion as Special Sub Inspector of Police to the petitioner with effect from 01.11.2020 on par with the petitioner's batch mates.

2. Heard Mr.B.Chakkaravarthi, learned counsel appearing for the petitioner and Mr.S.Shanmugavel, learned Additional Government Pleader appearing for the respondents.



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3. By consent of both parties, this writ petition is taken up for final hearing at the admission stage itself.

4. The petitioner was given with the punishment of 'Black Mark' by the first respondent on 03.06.2021. The petitioner challenged the same by way of filing a representation with the second respondent and the same was rejected. The petitioner preferred a mercy petition on 22.04.2023 before the first respondent. However, the same has also been rejected. Since the petitioner has joined service on 01.11.1995 he is eligible for up-gradation of Grade-I Police Constable on 01.11.2005. After completing such 25 years of service, the petitioner is eligible to be posted as Special Sub Inspector of Police on 01.11.2020 on par with his batch mates. Due to the punishment of 'Black Mark' which would take effect from the date of occurrence ie., on 10.07.2019, the petitioner has not been given with any promotion to the post of Special Sub Inspector of Police.

5. Mr.B.Chakkaravarthi, learned counsel appearing for the petitioner submitted that as per the Police Standing Orders 93 & 94(4) a 'Black Mark' shall



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take effect from the date of offence, unless otherwise stated. The limited argument of the learned counsel for the petitioner is that the 'Black Mark' will take effect from 10.07.2019 and hence, he could not have considered to the post of Special Sub Inspector of Police which according to him was due on 01.11.2020.

6. The petitioner has been given with the previous up-gradation properly on completion of the required years of service without any hindrance. However, the petitioner has got the punishment of 'Black Mark' on 10.07.2019 and hence, the petitioner cannot claim that the punishment of 'Black Mark' which impacted his career on 2019, shall not be held against him for his future promotion.

7. In this connection, the learned counsel for the petitioner relied on the order of this Court made in WP(MD)No.14661 of 2019 dated 07.10.2021 wherein it is held that 'Black Mark' shall not be an embargo to be considered for the future up-gradation. For clarification, the relevant portion of the order is extracted hereunder:

*“12. Admittedly, the punishment of postponement of increment was modified as that of punishment of blackmark*



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*by the 2<sup>nd</sup> respondent on 08.01.2015 and it is not in dispute that the date of delinquency committed by the petitioner was 11.08.2012. Therefore, under PSO 94(4), it has been clearly contemplated that punishment of Blackmark shall take effect from the date of offence, unless otherwise stated. When that be so, as rightly contended by the learned counsel for the petitioner there was no embargo for consideration of the claim of the petitioner for upgradation as on 01.12.2013. The provisions of the new enactment extracted above will apply only in the matter of minor and major punishments that any punishment (other than “Censure”) imposed on a member of service within a period of five years prior to the crucial date and a punishment of “Censure” imposed within a period of one year prior to the crucial date shall be held against the member of service and his name shall not be considered for inclusion in the approved list. As regards the punishment of blackmark is concerned, as per PSO 94(4) extracted above, the punishment would take effect from the date of delinquency i.e. on 11.08.2012 and thereby, there was no impediment for consideration of the claim of the petitioner. Accordingly, after the punishment of blackmark was imposed, the petitioner is entitled to the upgradation with effect from 01.12.2013. Though the learned Government Counsel refers*



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*to the new enactment, namely, Tamil Nadu Government Servant (Condition of Service) Rules, 2016, which cannot have any application to the petitioner's case. Any provision, which is penal in nature, cannot be given retrospective effect unless there is express provision.”*

8. However, Mr.S.Shanmugavel, learned Additional Government Pleader submitted that in the impugned order, it is stated that after the completion of punishment period from 28.06.2021 to 27.06.2022 his post has been up-graded as Special Sub Inspector of Police with effect from 01.07.2022. In fact, in the impugned order, various punishments imposed on the petitioner have been listed. The petitioner has not challenged the punishment of 'Black Mark' and got it set aside. Now, the petitioner has challenged the reply sent by the third respondent vide his proceedings in C.No.A2/5658192/2023 dated 12.02.2024 rejecting his request to revise the up-gradation order passed by the Deputy Inspector General of Police dated 14.07.2022 which has been given effect from 01.07.2022.



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9. Since there was currency of punishment from the period from 28.06.2021 to 27.06.2022, the petitioner was not considered for the up-gradation to the post of Special Sub Inspector of Police during that period. Hence, I find no merits in this writ petition.

10. In the result, this writ petition is **dismissed**. No Costs. Consequently, connected miscellaneous petition is closed.

02.04.2024

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

To

1. The Director General of Police,  
O/o. the Director General of Police, Chennai.

2. The Deputy Inspector General of Police,  
Madurai Range,  
Madurai.

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**R.N.MANJULA, J.**

PJL

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