



W.P.(MD)No.15483 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.07.2024

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD)No.15483 of 2024 &
W.M.P.(MD)No.13535 of 2024

Suresh Kannan

... Petitioner

vs.

1.The Director General of Police,
Tamil Nadu, Chennai - 4.

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

3.The Superintendent of Police,
Tirunelveli District,
Tirunelveli.

... 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 pertaining to the order passed by the 1st respondent in Re.No. 315506/AP-2(1)/2019, dated 20.3.2020 modifying the order passed by the 2nd respondent in C.No.C4/AP.33/2019, dated 12.09.2019 confirming the punishment passed by the 3rd respondent in D.O.No.861/2019 C.No.P2/PR136/2017, dated 22.5.2019, quash the same and consequent direction may be issued to the respondents to provide the petitioner a



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promotion to the post of Special Sub Inspector on par with his immediate juniors within a stipulated time.

For Petitioner : Mr.T.Augustine Ebenezer

For Respondents : Mr.N.Ramesh Arumugam
Government Advocate

ORDER

Heard Mr.T.Augustine Ebenezer, learned counsel appearing for the petitioner and Mr.N.Ramesh Arumugam, learned counsel appearing for the respondents.

2. The petitioner has filed this writ petition seeking to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the order passed by the 1st respondent in Re.No.315506/AP-2(1)/2019, dated 20.03.2020 modifying the order passed by the 2nd respondent in C.No.C4/AP.33/2019, dated 12.09.2019 confirming the punishment passed by the 3rd respondent in D.O.No.861/2019 C.No.P2/PR136/2017, dated 22.05.2019, quash the same and consequent direction may be issued to the respondents to provide him a promotion to the post of Special Sub Inspector on par with his immediate juniors within a stipulated time.



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3. The petitioner who is working as a Head Constable Grade - I has filed this writ petition stating that he has not been considered for promotion despite there is no currency of punishment. The grievance of the petitioner is that even when his juniors were promoted as Special Sub Inspectors from 01.06.2024, he was not promoted.

4. Originally, the petitioner was punished with compulsory retirement by order of the third respondent dated 22.05.2019 at the conclusion of the disciplinary proceedings against him. The petitioner has challenged the same by way of an appeal before the second respondent and the second respondent by order dated 12.09.2019 had confirmed the order of compulsory retirement from service. However, in the review petition filed before the first respondent, the order of compulsory retirement has been modified to postponement of increment for a period of three years without cumulative effect by order dated 20.03.2020.



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5. Mr.T.Augustine Ebenezer, learned counsel appearing for the petitioner submitted that if the punishment of postponement of increment for a period of three years is computed from the date of order in the review petition, that would have got expired by the year 2023.

6. It is not known when the annual increment of the petitioner would fall every year. But, whatever may be the case, the petitioner could have been considered for the promotion during the year 2024.

7. Mr.N.Ramesh Arumugam, learned Government Advocate appearing for the respondents submitted that the petitioner without giving any representation to the Department has filed this writ petition straightaway. The petitioner who has been acquiescing to the order of punishment of the first respondent dated 20.03.2019, all of a sudden, has filed this writ petition by challenging the punishment.

8. The learned counsel appearing for the petitioner submitted that in the affidavit filed in support of this petition itself, the petitioner



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has averred that he did not challenge the punishment by hoping that the punishment would not place any hurdles on his promotional avenues.

9. The petitioner has been punished in view of the pending criminal proceedings in Crime No.321 of 2017 of Thisayanvilai Police Station. The said case was quashed by the order of this Court dated 27.11.2017 in CrI.O.P.(MD)Nos.16027 and 16028 of 2017, since a compromise was arrived between the parties. But, such a kind of disposal in the criminal proceedings cannot have any bearing upon the disciplinary proceedings which requires the preponderance of evidence as standard of proof. It appears that the petitioner had challenged the order of punishment only because he has been deprived of the promotional scope. Since the currency of punishment is over, I feel that the petitioner can give a representation to the third respondent to consider his name for promotion and the third respondent shall consider the same and pass appropriate orders.



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10. In view of the above observations, the writ petition is **disposed of** and the petitioner is at liberty to make a representation to the third respondent requesting to consider his name also for the next promotion within a period of two weeks from the date of receipt of a copy of this order and on receipt of such representation, the third respondent shall consider the same on merits and pass appropriate orders in accordance with law within a period of four weeks thereon. No costs. Consequently, connected Miscellaneous Petition is closed.

11.07.2024

NCC: Yes/No

Index : Yes/No

Speaking/Non-Speaking order

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To
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- 3.The Superintendent of Police,
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R.N.MANJULA, J.

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