



W.P(MD)No.25658 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
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DATED: 03.01.2025

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP(MD). No.25658 of 2022 and
WMP(MD) No.19751 of 2022

C.Kasturi Ganthi.

... Petitioner

Vs

- 1.The Principal Secretary to Government,
Home (Police II) Department,
Secretariat, Fort.St.George,
Chennai 600 009.
- 2.The Director General of Police, (Law and Order),
Office of the Director General of Police, Chennai.
- 3.The Additional Director General of Police (Administration),
Office of the Director General of Police,
Chennai.
- 4.The Commissioner of Police,
Madurai City, Madurai.
- 5.The Account General (A and E),
361, Anna Salai,
Chennai 600 018.

...Respondents



W.P(MD)No.25658 of 2022

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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue Writ of Mandamus, directing the respondents 1 to 4 to promote the petitioner from the post of Deputy Superintendent of Police to the post of Additional Superintendent of Police with effect from 29.09.2013 on par with the petitioner's junior RA Ambikapathy, as per G.O.(MS).No. 771, Home Police 1A Department, dated 29.09.2013 and consequently direct the respondents to pay all monetary benefits and refixing the petitioner's pension and also all arrears with interest of 12 percent PA within the time stipulated by this Court.

For Petitioner	: Mr.C.Jeganathan
For R1 to R4	: Mr.P.T.Thiraviam
	Government Advocate
For R5	: Ms.S.Mahalakshmi

ORDER

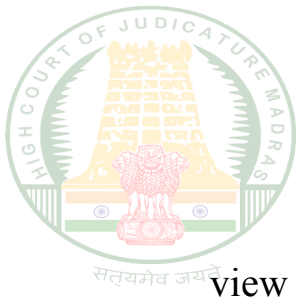
The petitioner, a retired Deputy Superintendent of Police with a grievance that though he was eligible for promotion to the post of Additional Superintendent of Police, he was not considered for promotion on certain allegations, has submitted a representation and filed this writ petition, seeking notional promotion.



W.P(MD)No.25658 of 2022

WEB COPY

2.The learned counsel appearing for the petitioner submits that the petitioner was appointed as a Sub Inspector of Police on 02.11.1979 through Tamil Nadu Public Service Commission. He was promoted as an Inspector of Police on 25.10.1993 and Deputy Superintendent of Police on 03.07.2007. The grievance of the petitioner is that though he was eligible to be promoted as Additional Superintendent of Police, he was denied promotion for the said post that disciplinary proceedings initiated as against this petitioner in TDP No.12/A 2012 and TDP No.13 of 2009 were pending. Challenging the same, the petitioner has filed writ petitions in WP(MD) Nos.17668 of 2013 and 18570 of 2013 before this Court. He has also filed another writ petition in WP(MD) No. 19427 of 2013, for a Mandamus, to direct the authorities to include the petitioner's name in the promotion Panel prepared for the post of Assistant Superintendent of Police. Besides the above disciplinary proceedings, a criminal case in RC No.6(S)2013-CBI, Chennai, for the offence punishable under Sections 120(b) r/w 342, 365, 302, 193 and 201(1) of IPC has been registered as against this petitioner. In



W.P(MD)No.25658 of 2022

WEB COPY

view of the above, the petitioner was suspended from service on 28.06.2014. While so, the petitioner has attained the age of superannuation on 31.07.2015. Due to pendency of the criminal case and the departmental proceedings, he was not allowed to retire from service, by a Government Order in G.O.(2D) No.25, Home Police II Department, dated 30.07.2015.

3.The learned counsel further submits that the writ petitions filed by the petitioner in WP(MD) Nos.17668 of 2013, 18570 of 2013 and 19427 of 2013 were allowed by this Court, by order dated 20.04.2016 and pursuant to the same, the disciplinary proceedings initiated as against this petitioner were dropped, by Government Orders in G.O.2(D) No.244 (Home) SC Department, dated 04.08.2017 and G.O.2(D) No.525 (Home) (Police 2) Department, dated 29.12.2016. The learned counsel further submits that a final report has also been filed in the criminal case, which was registered as against this petitioner in RC No.6(S)2013-CBI and the same was taken on file in SC No.131 of 2017, wherein, the



W.P(MD)No.25658 of 2022

WEB COPY

petitioner was acquitted on 21.08.2019. Thereafter, the petitioner has submitted a representation to the respondents on 10.10.2019, sought for promotion and for retirement benefits. Since the same was not considered by the respondents, the petitioner was forced to file another writ petition in WP(MD) No.22745 of 2019, for a Mandamus, for grant of notional income and this Court by its order, dated 10.10.2019, directed the respondents to consider his representation. Even then, the petitioner's representation has not been considered. Therefore, the petitioner has initiated contempt proceedings as against the respondents. During pendency of the contempt proceedings, the order of suspension was revoked and the petitioner was permitted to retire from service, by a Government Order in G.O.(2D) No.216, dated 07.09.2021. Even after passing of the above Government Order, the petitioner's request for notional promotion has not been considered by the respondents. According to the petitioner, similarly placed person has been granted with notional promotion. However, he has been denied. Therefore, the petitioner has filed this writ petition in the year 2022.

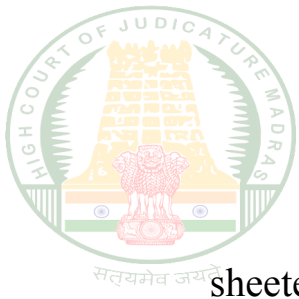


W.P(MD)No.25658 of 2022

WEB COPY

4.The learned Government Advocate appearing for the

respondents submits that the petitioner was facing disciplinary proceedings in TDP No.12/A 2012 and TDP No.13 of 2009 before the Tribunal for Disciplinary Proceedings, Trichy and therefore, he was not allowed to retire on his attaining the age of superannuation on 31.07.2015, by a Government Order in G.O.(2D) No.251, Home (Police.2) Department, dated 30.07.2015. Though he was not allowed to retire from service, pursuant to the order passed by this Court on 20.04.2016, in WP(MD) Nos.15728, 17668, 18570, 19418 and 19427 of 2013 and 19427 of 2013, filed by this petitioner and one K.Govindaraj, the Government have dropped further action in the pending TDP No.12/A 2012 and TDP No.13 of 2009, by Government Orders in G.O.2(D) No.244 (Home) SC Department, dated 04.08.2017 and G.O.2(D) No.525 (Home) (Police 2) Department, dated 29.12.2016. He further submits that the petitioner was placed under suspension on 28.06.2014, for his involvement in a criminal case in RC.No.6(S)/2013/CBI/Chennai and the criminal case, which was registered as against this petitioner has been charge



W.P(MD)No.25658 of 2022

WEB COPY

sheeted in SC No.131 of 2017 and it was ended in acquittal by the I Additional Sessions Court, Trichy on 21.08.2019. Therefore, the order of suspension has been revoked, his suspension period was also regularized vide Government Order in G.O. (2D) No.216, Home (Police-2) Department, dated 07.09.2021, he was permitted to retire from service with effect from 31.07.2015 and eligible monetary benefits were also sanctioned to this petitioner. Insofar as the grant of notional promotion, the learned Government Advocate submits that one K.S.Subramanian, the petitioner's junior has been temporarily promoted to the post of Additional Superintendent of Police. Since there is no provision for grant of temporary promotion notionally with retrospective effect, the petitioner can be considered for promotion to the post of ADSP along with his batch-mates and his juniors, at the time of regularization of the temporary promotion accorded in G.O.Ms.No.771, Home (Pol.1A) Department, dated 29.09.2013, as per the existing Rules and Regulations.



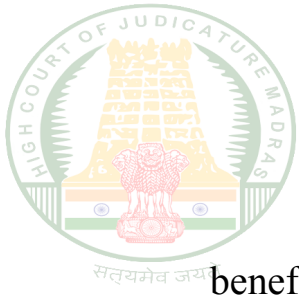
W.P(MD)No.25658 of 2022

WEB COPY

5.This Court considered the rival submissions made and also perused the materials placed on record.

6.The petitioner, a retired Deputy Superintendent of Police has approached this Court that he was denied promotion to the post of Assistant Superintendent of Police, in view of pending disciplinary proceedings and a criminal case. It is an admitted fact that the disciplinary proceedings and the criminal case have been ended in favour of the petitioner. Thereafter, he was permitted to retire from service and he was settled with the eligible monetary benefits. Since the disciplinary proceedings have been dropped and the petitioner has also been acquitted in the criminal case, the respondents ought to have considered the case of this petitioner for notional promotion. However, it has been denied to him.

7.In view of the above, this writ petition is allowed. The respondents 1 to 4 are directed to consider the case of this petitioner for notional promotion and shall provide the eligible monetary



W.P(MD)No.25658 of 2022

benefits at par with his junior, in accordance with law. No costs.

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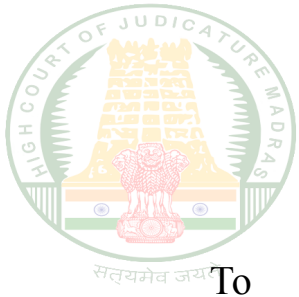
Consequently, connected Miscellaneous Petition is closed.

03.01.2025

NCC:Yes/No

Index:Yes

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W.P(MD)No.25658 of 2022

To
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- 1.The Secretary to Government,
Union of India,
Ministry of Finance and Banking,
New Delhi.
- 2.The Chairman,
State Bank of India,
Corporate Centre,
State Bank Bhavan,
Madama Cama Road,
Nariman Point,
Mumbai, Maharashtra-400021.
- 3.The Deputy General Manager (B and O),
State Bank of India,
Madhuran Complex,
Dr.Ambedkar Road, Madurai-2.
- 4.The Zonal Manager,
State Bank of Travancore, Zonal Office,
Guna Complex, P.B.No. 6901,
Anna Salai,
Teynampet, Chennai-18.



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W.P(MD)No.25658 of 2022

B.PUGALENDHI, J.

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Order made in
WP(MD). No.25658 of 2022 and
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03.01.2025