

S.K.Ameer Vs. the Deputy Inspector General of Police

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Court : Chennai

Decided On : Jun-26-2014

Judge : D.Hariparanthaman

Appellant : S.K.Ameer

Respondent : The Deputy Inspector General of Police

Judgement :

IN THE HIGH COURT OF JUDICATURE AT MADRAS DATED: 26.06.2014
CORAM THE HONOURABLE Mr.JUSTICE D.HARIPARANTHAMAN
W.P.NO.10666 OF 2012 AND M.P.NO.1 OF 2012 S.K.Ameer .Petitioner Versus
1.The Deputy Inspector General of Police Salem Range, Salem, Salem District.

2.The Superintendent of Police Salem Rural, Salem, Salem District.Respondents
PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorarified Mandamus, to call for the entire records relating to the impugned order passed by the 2nd respondent in his proceedings Na.Ka.No.A-1/46770/2011 dated 28.12.2011 and quash the same and consequently direct the respondents to give effect the promotions to the post of Grade I and Special Sub Inspector of Police by taking note of length of petitioner service by way of giving monetary benefits to the petitioner.

For Petitioner : Mr.C.Prakasam For Respondents : Mr.I.Arockiasamy Government Advocate

ORDER

The petitioner joined service as Grade II Police Constable on 17.07.1976.

He was upgraded as Gradel Police Constable on 24.08.1994.

He was promoted as Head Constable on 24.08.1999.

While so, before completing 10 years of service as Head Constable, he opted to retire voluntarily from service on 31.12.2001.

2.It is relevant to take note of the fact that the petitioner was not initially granted upgradation as Gradel Police Constable on 24.08.1994, when the otheRs.who were recruited along with him, were granted upgradation.

The reason was that a punishment was pending against him, as on that date.

However, the punishment was set aside by the Tamil Nadu Administrative Tribunal subsequently.

Hence, he was also given upgradation from 24.08.1994.

3.The petitioner made a representation dated 23.11.2011 to the second respondent stating that he should be upgraded as Gradel Police Constable from 17.07.1986, on completion of ten years of service, as per G.O.Ms.No.1681, Home (Police-V) Department, dated 12.10.1992 and he should have been further upgraded as Head Constable with effect from 17.07.1991 on completion of five years of service.

On completion of 10 years of service as Head Constable, he should have been further upgraded as Special Sub Inspector of Police, with effect from 17.07.2001.

In that event, he should have been retired from service on 31.12.2001, as Special Sub Inspector of Police voluntarily.

However, the said request was rejected by the second respondent vide order dated 28.12.2011.

4.Heard both sides.

5.According to the learned counsel for the petitioner, ten years of service, for granting upgradation as Grade I Police Constable, shall be counted from the date of entry into service.

If it is done in that way, he could have been upgraded as Grade I Police Constable, with effect from 17.07.1986.

Thereafter, on completion of five years of service as Grade I Police Constable, he should have been upgraded as Head Constable, with effect from 17.07.1991.

Likewise, on completion of ten years of service as Head Constable, he should have been upgraded as Special Sub Inspector of Police.

That is, according to the learned counsel for the petitioner, ten years service shall be counted from the date of entry into service.

6.The learned Government Advocate has submitted that the Government issued G.O.Ms.No.1681, Home (Police-V) Department, dated 12.10.1992 granting upgradation to Grade-II Police Constables as Grade-I Police Constables as a fiRs.time since there was stagnation in the post of Grade-II Police Constable.

It is stated in the G.O.that 21000 Grade-II Police Constables were to be upgraded as Grade-I Police Constables and 2700 Grade-I Police Constables were to be upgraded as Head Constables in a phased manner over a period of 5 years from 1992-1993 onwards as detailed below : FiRs.Phase - 9,000 Police personnel, enlisted up to 31.12.1975 were upgraded as Grade-I PCs with effect from 01.01.1993 Second Phase- 4,000 Police personnel, enlisted upto 31.12.1978 were upgraded Grade I PCs with effect from 22.07.1994.

Third Phase - 4,000 Police personnel, enlisted up to 31.12.1980 were upgraded as Grade I PCs with effect from 24.11.1994.

Fourth Phase - 4,000 Police personnel, enlisted upto 31.12.1984 were upgraded as Grade I PCs with effect from 25.07.1995.

7.I have considered the submissions made on either side and perused the materials available on record.

8.Earlier, before passing of G.O.Ms.No.1681, Grade II Police Constable shall wait for vacancies in Grade I Police Constable posts for promotion and also he had to undergo certain selection process.

Likewise, the post of Head Constable was also a promotional post and the same could be filled up based on the vacancies and selection procedure.

Since police personnel were languishing in the same posts, without any promotion, the Government was inclined to grant benefit of upgradation, in G.O.Ms.No.1681.

9.In this case, the petitioner was upgraded as Grade-I Police Constable and he was one among 21000 police personnel.

He was upgraded on 24.08.1994 as Grade-I Police Constable.

Now he wants upgradation from 1986 taking into account his date of entry into service for counting ten years of service.

In 1976 or 1986, police personnel were only promoted and not upgraded and promotions were based on the availability of vacancies.

Therefore, I do not see any reason in the request of the petitioner to count ten years of service.

If such a request is accepted, the persons who joined in 1960's and 1970's also would come for the same benefit, that is, for the purpose of granting the benefit of upgradation and the consequent revision in pension and for arrears payable due to such revision of pay and pension.

It will open the Pandora's box.

The purpose of G.O.Ms.No.1681 is only to give upgradation to the existing Grade II and Grade I Police Constables as Grade-I and Head Constables, since they were languishing in those posts for decades.

It is clear that G.O.Ms.No.1681 has only prospective operation and there is nothing found in the said Government Order to operate retrospectively.

10.Further, based on G.O.Ms.No.1681, Home (Police-V) Department, dated 12.10.1992 and G.O.Ms.No.807, Home (Police-V) Department, dated 18.07.1994, the petitioner was properly upgraded along with otheRs.who were similarly situated like him.

11.In fact, similar writ petitions of this nature were already dismissed by this Court by an order dated 12.06.2013 in W.P.Nos.15628 of 2013 etc.batch.

12.For the aforesaid reasons, the writ petition is dismissed.

No costs.

Consequently, connected miscellaneous petition is closed.

26.06.2014 (1/2) Index : Yes/No Internet : Yes/No TK To 1.The Deputy Inspector General of Police Salem Range, Salem, Salem District.

2.The Superintendent of Police Salem Rural, Salem, Salem District.

D.HARIPARANTHAMAN, J.

TK W.P.NO.10666 OF201226.06.2014 (1/2)

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