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W.P.No.32670 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 2/4/2025

C O R A M

The Hon'ble **Ms.JUSTICE V.BHAVANI SUBBAROYAN**

Writ Petition No.32670 of 2023

a n d

W.M.P.No.32271 of 2023

R. Manivannan

...

Petitioner

Vs

1. The Director General of Police
Tamil Nadu
Chennai 600 004.
2. The Deputy Inspector General of Police
Salem Range
Salem.
3. The Superintendent of Police
Namakkal District
Namakkal.

...

Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus to direct the respondents to consider the claim of the petitioner for temporary promotion as Sub-Inspector of Police, by way of upgradation in the light of the representation of the petitioner dated 15/3/2023.



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For petitioner	...	Mr.M.Ravi
For respondents	...	Mr.R.U.Dinesh Rajkumar Additional Government Pleader

ORDER

This writ petition has been filed to direct the respondents to consider the claim of the petitioner for temporary promotion as Sub-Inspector of Police, by way of upgradation in the light of the representation of the petitioner dated 15/3/2023.

2. The case of the petitioner is as follows:-

The petitioner was initially appointed as Police Constable Grade II on 1/11/1995. Later he was promoted as Police Constable Grade I from 1/11/2005 and Head Constable from 1/11/2015. The petitioner was due for upgradation as Special Sub Inspector of Police from 1/11/2020. A false criminal case has been foisted against the petitioner, in Crime No.2/AC/2015 dated 19/2/2015 for the offences punishable under Sections 120-B, 193, 465, 468 and 471 of the Indian Penal Code r/w. Sections 13 (2)

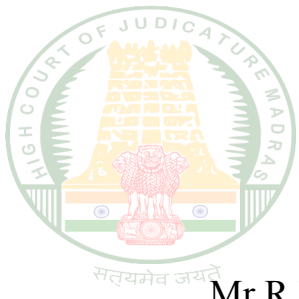


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r/w. 13 (1) (d) of the Prevention of Corruption Act, 1988. After

investigation, charge sheet has been filed on 15/5/2017 in the Court of Special Judge/Chief Judicial Magistrate, Namakkal, and numbered as C.C.No.88 of 2017. The petitioner had filed a discharge petition before the trial Court and the same was dismissed. Against the order of dismissal, petitioner had preferred CrI.R.C.No.555 of 2021 on the file of this Court and the same was dismissed on 17/12/2021, as not pressed.

3. The petitioner had filed Criminal Original Petition No.6122/2022 on the file of this Court under Section 482 of the Code of Criminal Procedure to quash the pending criminal proceedings. Thereafter, the Criminal Original Petition was dismissed by the order dated 17/3/2022. SLP (Criminal) No.8583/2022 filed by the petitioner before the Hon'ble Supreme Court was dismissed by order dated 13/2/2023 as withdrawn, with liberty to file a discharge application in the trial Court. Even though the petitioner had completed 25 years of service, as on 1/11/2020, he has not been upgraded, due to the pendency of the criminal case. Hence, the petitioner has come forward with the instant writ petition.



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4. Heard Mr.M.Ravi, learned counsel for the petitioner and Mr.R.U.Dinesh Rajkumar, learned Additional Government Pleader for the respondents.

5. The learned counsel appearing for the petitioner would submit that persons who joined service in the year 1995 along with the petitioner and enlisted in the year 1996 and 1997 have been upgraded as Special Sub-Inspector of Police. Hence, the petitioner has made a representation dated 15/3/2023 to the first respondent, citing Rule 17 (b) of the Tamil Nadu Civil Services (D & A) Rules and Rule 3 (b) of the Tamil Nadu Police Subordinate Service Rules (D & A) Rules. Since the same has not evoked any response, the petitioner's counsel prays to allow the instant writ petition.

6. The learned Additional Government Pleader would submit that upgradation will not be ordered, if the Police personnel was awarded with the punishment or if a criminal or V & AC case is pending. Upgradation will be given only based on the completion of the punishment or the acquittal of the criminal case pending. Hence, prays to dismiss the present writ petition.



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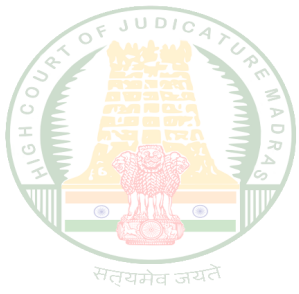
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7. Perused the materials available on record.

8. The writ petitioner was enlisted as Grade – II Police Constable on 1/11/1995, upgraded as Grade – I Police Constable on 1/11/2005 and Head Constable on 1/11/2015. The charges were framed against the first accused /writ petitioner and second accused. Summons were issued to L.W1 and 2 in the criminal case. Since the charges are framed against the petitioner, he is not eligible for temporary promotion, as per Section 47 (4) of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016.

9. It is relevant to extract 47 (4) of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016.

“Where it is necessary to promote an Officer against whom an enquiry into allegations of corruption or misconduct is pending, but no charge sheet has been filed in the criminal case or where no charge under sub-rule (b) of Rule 17 of the Tamil Nadu Civil Services (Discipline and



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Appeal) Rules have been framed or no proceedings before the Tribunal for Disciplinary Proceedings is pending, the appointing authority may promote him temporarily pending enquiry into the allegations against him.”

10. A bare reading of the above would indicate that the writ petitioner is not eligible for temporary promotion as per Rule 47 (4) of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016, since the charges were framed against the writ petitioner.

11. Considering the fact that trial has already commenced in Special C.C.No.88 of 2017, pending on the file of the learned Special Judge/Chief Judicial Magistrate, Namakkal this Court directs the Special Judge/Chief Judicial Magistrate, Namakkal to dispose of C.C.No.88 of 2017, as expeditiously as possible, preferably, within a period of six months, from the date of receipt of a copy of this order.



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12. With the above direction, this writ petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

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Index: Yes/No

Neutral Citation: Yes/No

To

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2. The Director General of Police
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3. The Deputy Inspector General of Police
Salem Range
Salem.
4. The Superintendent of Police
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