

(2010) 07 MAD CK 0279

In the Madras High Court

Case No : Writ Petition No. 943 of 2007 (T) and O.A. No. 1642 of 2000

T.R. Natanakumar

APPELLANT

Vs

The State of Tamil Nadu

RESPONDENT

Date of Decision : 13-07-2010

Acts Referred:

Tamil Nadu Police Subordinate Service (Discipline and Appeal) Rules, 1955 — Rule 3

Citation : (2010) 07 MAD CK 0279

Hon'ble Judges : T. Raja, J

Bench : Single Bench

Advocate : B.K. Srinivasan, for Muthappan, for the Appellant; S. Gopinathan, AGP, for the Respondent

Final Decision : Dismissed

Judgement

T. Raja, J.—The petitioner, while serving as Inspector of Police, suffered a punishment of reduction in time scale of pay by one stage for one year, by order dated 30.07.99. Aggrieved by the said order of punishment, the petitioner preferred an appeal and the same was also dismissed. As against that order, the present Original Application has been filed.

2. Learned Counsel appearing for the petitioner submits that though the petitioner suffered the punishment for an incident that took place in the year 1989, any punishment awarded should not be taken into consideration, while considering the delinquent for promotion, if the incident had taken place 5 years prior to the date of order of punishment (and only the disciplinary proceedings were pending on the date of drawal of the promotion panel). In his further submission, he has also relied upon the norms adopted in the meeting held on 03.04.96. In the said norms, Clause 2 states that any punishment ordered within a period of five years as on the crucial date, is to be held against the officer. On that basis, prayed for a direction to include his name for promotion as Deputy Superintendent of Police (Cat-I) from the year 1997-98.

3. On the other hand, learned Counsel appearing for the respondents submits that the argument made by the petitioner to include his name in the panel for promotion for the year 1997-98 as Deputy Superintendent of Police cannot be considered, in view of the letter No. 52716/S/99-1, Personnel and Administrative Reforms Department, dated 01.10.99, which says that whenever an officer is undergoing any punishment, other than Censure, on the crucial date or on the date of consideration, then irrespective of the time of occurrence of the irregularity, his name should be passed over. If the currency of punishment continues at the time of subsequent consideration for the next panel(s), he should still be passed over on the ground that an officer should not be considered for promotion during the currency of any punishment. As such, the petitioner is not suitable for inclusion of his name in the promotion panel till the period of currency of the punishment of reduction in pay for one year imposed on 30.07.1999 is over.

Since the punishment was not "Censure", as per the guidelines issued in para 4 II(3), it was contended by the learned Counsel for the respondents that the petitioner was undergoing punishment of reduction in time scale of pay by one stage for one year by order dated 30.07.1999. Therefore, irrespective of the time of occurrence of the irregularity, his name should not be considered and should be passed over. Even at the time of consideration for the next panel, as per the above said amendment, the petitioner's name should be passed over. On that basis, prayed for dismissal of the petition.

4. Heard the learned Counsel appearing on either side and perused the materials available on record.

5. The amendment was brought in G.O.Ms. No. 368, dated 18.10.93, which specifically answers the prayer of the petitioner. The extract of the amendment is given as under:

Whenever an Officer is undergoing any punishment, other than Censure, on the crucial date or on the date of consideration, then irrespective of the time of occurrence of the irregularity, his name should be passed over for that panel. If the currency of punishment continues at the time of subsequent consideration for the next panel(s) he should still be passed over on the grounds that an officer should not be considered for promotion or promoted during the currency of any punishment. After the completion of its currency, no punishment should be held, once again, against an official even it falls within the check period of any panel, if it has already been held against the official on any earlier occasion.

In respect of "Censure" the guidelines issued in Paragraph 4II(2) of the letter second cited shall be followed.

As per the above said amendment, the petitioner was admittedly undergoing punishment on the crucial date or on the date of consideration. As per the G.O.Ms. No. 368, dated 18.10.93, the pendency of charges framed under Rule 3(b) of the Tamil Nadu Police Subordinate Service (Discipline and Appeal) Rules

should be held against the petitioner and inclusion of such name to be deferred until finalisation of the disciplinary proceedings.

As per the said G.O.Ms. No. 368, since the departmental proceedings initiated under Rule 3(b) of the Tamil Nadu Police Subordinate Service (Discipline and Appeal) Rules, was admittedly pending in P.R. No. 7/97, the prayer for inclusion of the petitioner's name in the regular panel of Inspectors of Police fit for promotion as Deputy Superintendent of Police (Cat-I) by recruitment by transfer for the year 1997-98, cannot be legally considered. Secondly, he has also suffered punishment of reduction in time scale of pay by one stage for one year, by order dated 30.07.99. Therefore, in view of the amendment as mentioned above, the petitioner's name again cannot be considered for the year 1997-98 and accordingly, this Court finds no substance in the present writ petition and the same is dismissed. No Costs.