



**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

**CIVIL APPEAL NO. _____ OF 2025
(@Special Leave Petition (C) No.30700 of 2024)**

P. SAKTHI

...APPELLANT

VERSUS

**THE GOVERNMENT OF
TAMIL NADU AND ORS.**

...RESPONDENTS

J U D G E M E N T

K. VINOD CHANDRAN, J.

1. Leave granted.
2. The appellant, a Police Constable in the service of the State of Tamil Nadu is aggrieved with the denial of consideration for promotion to the post of Sub Inspector of Police. The appellant who was initially appointed on 01.03.2002, was eligible for consideration in the year 2019 when a notification was issued for considering eligible constables for in service promotion in the 20%

departmental quota. The appellant applied for the same but by Annexure P/8 dated 13.04.2019, he was denied consideration since, according to the Superintendent of Police, he was disentitled as per the rules for reason of a punishment of postponement of next increment for one year without cumulative effect, imposed on 09.05.2005.

3. True, the recruitment rules provided for disentitling an in-service candidate, if they did not have a clean record of service without any punishment other than minor punishment of black mark, reprimand and/or censure. However, the appellant's punishment was interfered with and set aside by Annexure P/4 as early as 27.11.2009. The criminal case lodged against him on the similar set of facts had also ended in his acquittal.

4. The appellant was proceeded against both departmentally and under the criminal law for allegedly having beaten up a colleague when they were posted in a check post. After duty, some dispute arose between them and there was a brawl in which the other constable was injured. This led to a criminal case being lodged in which he was arrested but later acquitted. The departmental

proceedings though entered in the finding of guilt with resultant punishment imposed, the same was set aside in 2009 by the Government as is evidenced from Annexure P/4. In such circumstances, the appellant could not have been disentitled from a consideration in the year 2019. The writ petition was also filed in the year 2019. In the above circumstances we are of the opinion that the appellant must be considered for promotion, *dehors* any disentitlement due to his having become overaged. The consideration will be made and if found eligible, he shall be promoted from 2019 and consequential benefits also shall be paid to him, since it was not his fault that the authority denied his consideration for promotion based on a punishment which had already been set aside. It is trite that the employee has no right to be promoted but has a right to be considered, when selections for promotions are carried out, unless disqualified; which right has been impinged, unjustly, in the above case.

5. The appeal stands allowed with the above directions.
6. Pending applications, if any, shall stand disposed of.

..... J.
(SUDHANSHU DHULIA)

..... J.
(K. VINOD CHANDRAN)

**NEW DELHI;
MAY 02, 2025**