



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.10.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P. (MD) No.15629 of 2019

and

W.M.P (MD) No.12309 of 2019

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N.Arumugam

... Petitioner

-Vs-

1.The State of Tamil Nadu,
Rep. through its Secretary to Government,
Home (Police) Department,
Fort St. George, Chennai.

2.The Director General of Police,
Rajaji Salai, Chennai.

3.The Superintendent of Police,
Sivagangai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the entire records relating to the impugned proceedings of the third respondent vide C.No.A3/17727/236/2018, dated 30.11.2018 and quash the same as illegal and consequentially to direct the respondents 1 and 2 herein be suitably directed to notionally refix the seniority of petitioner by taking into account of entry in to service i.e., 25.10.1984 with all monetary benefits in accordance with the decision of this Court rendered in W.P.No.25043 of 2002 dated 18.09.2007 and in the light of G.O.Ms.No.152, Home (Police VI) Department, dated 27.02.2017, with the time limit fixed by this Court and pay all attendant, monetary and service benefits.

For Petitioner : Mr.M.Dinesh

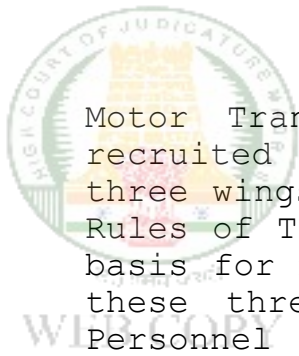
For Respondents : Mr.S.Dhayalan,

Government Advocate

ORDER

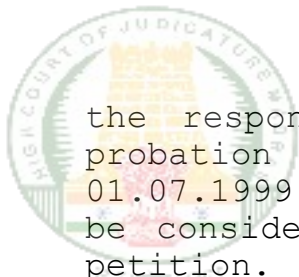
The Writ Petition is filed challenging the impugned order passed by the third respondent vide C.No.A3/17727/236/2018, dated 30.11.2018 and quash the same as illegal and for a direction to the respondents 1 & 2 to notionally refix the seniority of the petitioner, by taking into account of entry into service i.e., 25.10.1984 with all monetary benefits in accordance with the decision of this Court rendered in W.P.No.25043 of 2002 dated 18.09.2007, and in the light of G.O.Ms.No.152, Home (Police VI) Department, dated 27.02.2017.

2. The petitioner was appointed as Grade II Police Constable on 25.10.1984 and after various promotions, he is working as Inspector of Police from 02.08.2013. The petitioner was posted in Armed Reserve Police. The Police Department has three wings namely,



Motor Transport, Armed Reserve and Local Police. The persons recruited as Police Personnel were posted only in any one of the three wings. All the three wings are governed by the same Special Rules of Tamil Nadu Police Subordinate Service Rules. There is no basis for maintaining the separate seniority of Police Personnel in these three wings. The issue of seniority among the Police Personnel in three wings was considered by the Division Bench of this Court, by order dated 18.09.2007 in W.P.No.25043 of 2002 and it was held that promotion should be only based on the seniority and the date of recruitment is the basis for fixing the seniority and effect promotion. Based on the said order, one N.K.Kaladaran and C.Regupathy, who were working in the Motor Transport Wing, were directed to be promoted by taking into account the date of their initial appointment as crucial for their promotion by G.O.Ms.No.1623, Home (Police V) Department, dated 12.12.2008. Subsequently, one S.Manuel, working in Armed Reserve Wing, filed a writ petition in W.P.No.9793 of 20013. This Court, by order dated 04.04.2016, directed the respondents to consider his request in the light of G.O.Ms.No.1623, Home (Police V) Department, dated 12.12.2008. The said order was implemented by passing G.O.Ms.No.152, Home (Police VI) Department, dated 27.02.2017, directing the second respondent to take into consideration the date of appointment and extend the same relief granted to N.K.Kaladaran and C.Regupathy. The petitioner is similarly placed like S.Manuel. The petitioner, S.Manuel and R.Malaichamy were joined on the same day and they are juniors to the petitioner and they were promoted on 05.12.2012. The petitioner gave representation on 27.06.2018 and filed a writ petition in W.P.(MD)No.23894 of 2018. When the writ petition was taken up for hearing, the learned Additional Government Pleader produced the impugned order rejecting the request of the petitioner. Recording the same, the said writ petition was dismissed as infructuous. In such circumstances, the petitioner has come out with the present writ petition challenging the said order of rejection.

3. The learned counsel appearing for the petitioner contended that not granting promotion to the petitioner taking into consideration the date of joining of the petitioner while the other similarly placed persons were promoted taking into consideration the date of their joining, is discriminatory and is violative of Article 14 of the Constitution of India. The Division Bench of this Court, by order dated 18.09.2007, made in W.P.No.25043 of 2002, held that the date of recruitment is criteria for fixing the seniority. The impugned order of third respondent rejecting the representation of the petitioner on the ground that for fixing the seniority, one must have completed probation period on or before 01.07.1999, is erroneous. Based on the order of the Division Bench referred to above, N.K.Kaladaran, C.Regupathy, R.Malaichamy and S.Manuel were promoted taking into account their date of their recruitment.



the respondents contended that the petitioner has not completed probation at that time and he has completed probation only on 01.07.1999. Only from the date of completion of probation, he will be considered for promotion and prayed for dismissal of the writ petition.

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5. Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents and perused the materials available on record.

6. From the materials on record, it is seen that the petitioner is seeking relief of promotion based on the date of his recruitment. This issue was considered by the Division Bench in the judgment dated 18.09.2007 in W.P.No.25043 of 2002. The Division Bench has held that the date of recruitment is basis for fixing the seniority for promotion. Based on the said judgment, the petitioners therein were promoted as per G.O.Ms.No.1623, Home (Police V) Department, dated 12.12.2008. Subsequently, one S.Manuel working in Armed Reserve Wing, filed a writ petition in W.P.No.9793 of 2013 and as per the order of this Court, dated 04.04.2016 the said S.Manuel was given promotion as per G.O.Ms.No.152, Home (Police VI) Department, dated 27.02.2017. Subsequently, R.Malaichamy was promoted based on the date of recruitment by G.O.Ms.No.1623, Home (Police V) Department, dated 12.12.2008.

7. In view of the above facts, the impugned order of the third respondent holding that the petitioner has not completed his probation on 01.07.1999 is set aside and the writ petition is allowed. The respondents 1 and 2 are directed to notionally re-fix the seniority of the petitioner by taking into the service rendered by him from the date of recruitment i.e., 25.10.1984. It is made clear that the petitioner is not entitled for monetary benefits for the earlier period. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS III)

// True Copy //

Sub Assistant Registrar (CS)

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To

1. The Secretary to Government,
Home (Police) Department,
Fort St. George, Chennai.



2.The Director General of Police,
Rajaji Salai, Chennai.

3.The Superintendent of Police,
Sivagangai.

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+1 CC to M/s.SPL GP (SR-95451[F] dated 01/11/2019)

W.P. (MD) No.15629 of 2019
31.10.2019

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