



W.P(MD)No.15405 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.04.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.15405 of 2020

and

W.M.P(MD)No.11287 of 2021

1.P.Manimozhi
2.S.Indira Gandhi
3.S.Jeyalakshmi

... Petitioners

Vs.

1.The Secretary to Government,
Home Department,
Secretariat,
Fort St.George,
Chennai - 600 009.

2.The Director General of Police,
Office of the Director General of Police,
Dr.Radhakrishnan Salai,
Mylapore,
Chennai - 600 004.

3.The Additional Director General of Police (Admin),
Office of the Director General of Police,
Dr.Radhakrishnan Salai,
Mylapore,
Chennai - 600 004.

4.The Superintendent of Police,
Alagerkoil Road,
Maduri District.

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records of the order passed by the third respondent dated 30.12.2020 in RC No. 158512/NGB V(2)/2020 and quash the same and direct the respondents to revise and advance the petitioners promotion as Head Constable with effect from 01.01.1996 and as Sub Inspector of Police w.e.f. 01.01.2006 and eventually as Inspector of Police w.e.f. 01.01.2016 with due all service and monetary benefits.

(Prayer amended vide Court order dated 06.03.2023)

For Petitioners : Mr.S.Senthil Kumar

For Respondents : Mr.G.Suriyananth
Additional Government Pleader

ORDER

Heard the learned counsel on either side.

2.The petitioners joined the police department as Women Police Constables, Grade-I, in the year 1991. They become Head Constables in the year 1999. They were promoted as Special Sub Inspectors of Police in the year 2009. Contending that their promotion as Head Constables and as Sub Inspectors of Police, must be advanced and that they should be promoted as Inspectors of police with effect from 01.01.2016, this writ petition came to be filed.



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3. The learned counsel for the writ petitioners reiterated all the contentions set out in the affidavit filed in support of this writ petition and called upon this Court to grant relief as prayed for. The respondents have filed counter affidavit and that the learned Additional Government Pleader took me through its contents and he prays for dismissal of this writ petition.

4. I carefully considered the rival contentions and went through the materials on record. I endorse the contention of the learned Additional Government Pleader that the prayer for promotion as sought for in the writ petition has to be rejected in view of the order dated 15.12.2021 passed in W.P.No.35498 of 2019 etc. The prayer in the said batch of writ petitions was identical. The Hon'ble Judge, dismissed the writ petition and in paragraph Nos. 47 to 66 of the said order held as follows:

"47. As per the above G.O, a total of 25 years of service was must to promote a Head Constable as a Special Sub Inspector of Police. The G.O. further clarified that since the Grade I Police Constables appointed in the year 1974 through direct recruitment had not completed their 25 years of total service when the G.O. was issued though they would have completed 10 years of service as Head Constables, exemption was given to them only from the 25 years of total service while promoting as Special Sub Inspector of Police.

48. Therefore, Grade I Police Constables appointed in the year



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1974 through direct recruitment were promoted as Special Sub Inspectors of Police without their completing 25 years of service.

49. Persons who were recruited under the Special Rules for Tamil Nadu Police Subordinate Service, the Tamil Nadu Special Police Subordinate Service Rules, 1978 and Adhoc Rule are to be treated on par with each other based on their qualification at the entry level and experience in the service. The qualifications to the Post of Grade II Police Constable under the respective Rules, viz. the Special Rules for Tamil Nadu Police Subordinate Service, the Tamil Nadu Special Police Subordinate Service Rules, 1978 and Adhoc Rule, are one and the same after 1978.

50. The petitioners who were appointed as Women Police Constables are to be treated on par with their male counterparts at the entry level post of Grade II Police Constable and not as Grade I Police Constable.

51. The Tamil Nadu Uniformed Services Recruitment Board (TNUSRB), which was later constituted in November, 1991 vide G.O.Ms.No.1806, Home (Ser.F) Department, dated 29.11.1991 for the recruitment of personnel for the Uniformed Services like Police, Prison and Fire and Rescue Services, has streamlined the method of direct recruitment to various posts in the above Uniformed Services.

52. Until about 2006, the police personnel who were appointed as Police Constables Grade I and II, after completing their requisite years of service as Constables and Head Constables, had to participate in the test conducted by Range Promotion Board.

53. The Government of Tamil Nadu by G.O.(Ms.) No.1055, Home (Police III) Department, dated 01.11.2006 decided to scrap the Range Promotion Board as large scale of irregularities and nepotism were noticed in the tests conducted by the Range Promotion Board.



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ORDER

While replying to the discussion relating to the "Demand No. 22- Police" on 30.08.2006 in the Legislative Assembly, the Hon'ble Chief Minister has made, among others, the following announcement:-

29. தமிழ்நாடு காவல்துறை சார்புப் பணி சிறப்பு விதியின் படி சரக பதவி உயர்வுக்கான வாரியம், எழுத்துத் தேர்வையும், எழுத்துத் தேர்வில் வெற்றி பெற்றவர்களுக்கு உடற்பயிற்சித் தேர்வுகள் உள்ளிட்ட நேரடித் தேர்வுகளையும் நடத்தி, அதில் தேர்ச்சி பெற்ற தலைமைக் காவலர்களை உதவி ஆய்வாளர்களாக (உள்ளூர் மற்றும் ஆயுதப்படை) பதவி உயர்வு அளிக்க தேர்ந்தெடுக்கும் முறை தற்போது உள்ளது.

காவல் துறையில், உதவி ஆய்வாளர் பணிக்குக் கீழே உள்ள பதவிகளுக்கோ உதவி ஆய்வாளர் பணிக்கு குழல் உள்ள பதவிகளுக்கோ இத்தகையை பதவி உயர்வுக்கான தேர்வுகள் நடத்தப்படுவதில்லை, எனவே, தலைமைக் காவலர்கள் மட்டுமே பதவி உயர்வுக்கான தேர்வுகளைத் தற்போது எழுதி வருகின்றனர்.

இத்தகைய போக்கு தலைமைக் காவலர்கள் மத்தியில் அதிருப்தியை ஏற்படுத்தியுள்ளது.

பணிமீப்பு, மற்றும் பணிப்பதிவேடுகளை ஆதாரமாகக் கொண்டு, இதர பதவிகளுக்கு பதிவ் உயர்வு அளிப்பதைப் போன்று இவர்களுக்கும் பதவி உயர்வு அளிக்க வேண்டும் என்ற கோரிக்கை தலைமைக் காவலர்களிடையே நீண்ட பல ஆண்டுகளாக இருந்து வருவதையேற்று, இந்த அரசு இனி தலைமைக் காவலர் பதவியிலிருந்து உதவி ஆய்வாளராக பதவி உயர்வுக்கு நடைபெறும் தேர்வு முறையை ரத்து செய்கிறது.

2. *In pursuance of the announcement made by the Hon'ble Chief Minister, the Director-General of Police has sent necessary draft notification for amending the rule 3 (d) (iii) of the Special Rules for the Tamil Nadu Police Subordinate Service insofar as it relates to deleting of the Range Promotion Board tests conducted to Head Constables/Head Constables (Armed Reserve) for promotion as Sub-Inspectors of Police/Sub-Inspectors of Police (Armed Reserve).*



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3. *The Government, after careful examination of the proposal of the Director-General of Police, have decided to accept the same. They accordingly direct that the provision relating to conduct of Range Promotion Board tests, viz., written test and viva-voce examination including drill test to Head Constables/Head Constables (Armed Reserve) for promotion as SubInspectors of Police/Sub-Inspectors of Police (Armed Reserve) in rule 3 (d) (iii) of the Special Rules for the Tamil Nadu Police Subordinate Service be deleted. Consequently, the Government direct that promotions to the Head Constables/Head Constables (Armed Reserve) as Sub-Inspectors of Police/Sub-Inspectors of Police (Armed Reserve) be granted based on seniority and service records.*

4. *Necessary amendments to the Special Rules for the Tamil Nadu Police Subordinate Service will be issued separately by the Government in the Home (Police.VI) Department.*

54. *As far as the 1991 batch Grade I Women Police Constables are concerned, they have been given promotion as Head Constables in the year 2003 and 2004 and thereafter, it was decided to notionally upgrade them as Head Constable with effect from the year 1999 without monetary benefits and thereafter, they were promoted as Special Sub Inspectors of Police in 2009 with monetary benefits from the date of G.O as a onetime measure and as a special case in terms of G.O.(Ms.) No. 152, Home (Police III) Department, dated 25.02.2011.*

55. *Under Adhoc Rules read with Notification given in G.O.Ms.No.2566, Home Department, dated 01.11.1974, exemption was given to the General Rules inasmuch as the aforesaid Rule was announced for the first time in the year 1974 with effect from 05.09.1973.*

56. *At that point of time, there was no scope for promotion to the post of Women Police Constable Grade I and therefore, it was construed that there was no necessity to distinct between the Grade I and Grade II*



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Police Constables as the word and figure ?Grade II? were against the Women Police Constables.

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57. Further, the appointment under Adhoc Rules as notified by G.O.Ms.No.2566, Home Department, dated 01.11.1974 was intended to create a temporary post for the Women Police Wing in the Madras City. The issue of aforesaid G.O.Ms.No.2566, Home Department, dated 01.11.1974 proceeded the issue of G.O.Ms.No.2382, Home Department, dated 05.09.1973, G.O.Ms.No.1048, Home Department, dated 27.04.1974 and Rc.No.39409/SR.2/73 of the Inspector General of Police, dated 01.11.1973 & 23.04.1974.

58. The qualification prescribed for the Women Police Constable which was amended by G.O.Ms.No.1203, Home (Police III) Department, 08.08.1995 was a mere pass in S.S.L.C. The petitioners were appointed with a minimum S.S.L.C. pass. Therefore, the petitioners cannot claim any advantage.

59. If the arguments of the learned counsel for the respective petitioners are accepted, the petitioners being appointed as Women Police Constables will be entitled to be promoted as Head Constables within 5 years and thereafter as Special Sub Inspectors / Sub Inspectors of Police within a period of next 10 years, whereas, their male counterparts would take about 25 years to be promoted as Special Sub Inspectors / Sub Inspectors of Police.

60. As the petitioners who were appointed as Women Police Constables through direct recruitment in the years 1981 and 1991 were promoted as Head Constables in the years 1996 & 1997 and 1999 and as Sub Inspectors of Police in the years 2003 & 2004 and 2009 respectively are concerned, they cannot claim any further benefit merely because they were recruited as Women Police Constables.



61. *It would be fallacious to treat the petitioners as superiors to their male counterparts who were appointed as Grade II Police Constables as the appointment of the petitioners in the years 1981 and 1991 was only at the entry level with a minimum educational qualification of SSLC.*

62. *If the contention of the petitioners are accepted, an anomalous situation would arise. Following Chart demonstrates the position:~*

<i>Batch</i>	<i>Head Constable</i>	<i>Special Sub Inspector / Sub Inspector</i>	<i>Inspector</i>
<i>1981 batch Gr.I W. P.Cs.</i>	<i>1986</i>	<i>1996</i>	<i>2006</i>
<i>1991 batch Gr.I W. P.Cs.</i>	<i>1996</i>	<i>2006</i>	<i>2016</i>

63. *It would confer undue advantage on the petitioners. The Government of Tamil Nadu had already considered the case of the petitioners by promoting the 1981 batch Women Police Constables as Head Constables with effect from the years 1996 & 1997 and the 1991 batch Women Police Constables as Head Constables with effect from the year 1999 and thereafter by promoting as Sub Inspector with effect from the years 2003 & 2004 and 2009 respectively. They also have been given notional benefits in terms of G.O.(Ms.) No.152, Home (Police III) Department, dated 25.02.2011.*

64. *Therefore, the petitioners cannot claim to be similarly placed persons as that of their male counterparts who were recruited in the bottom at the entry point of time as Grade II Police Constables and thereafter upgraded as Grade I Police Constables at the end of 10 years as Grade II Police Constables merely based on their designations.*



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65. *In the light of the above, there are no merits in these Writ Petitions and they therefore deserve to be dismissed. The petitioners are however given liberty to approach the respondents for appropriate relaxation.*

66. *Accordingly, these Writ Petitions are dismissed. No cost. Consequently connected Miscellaneous Petitions are closed."*

5. Though I cannot grant the relief sought for by the petitioner herein, I can still grant relief to them by molding the prayer. The writ petition was filed in the year 2020. We are now in the year 2023. The learned counsel for the petitioner draws my attention to the memorandum bearing No.Rc.No.NGB-I(1)/E/025/2022 dated 05.06.2022, issued by the Director General of Police. Paragraph No.2 of the said memorandum is as follows:

"2.Hence, all the Commissioners of Police and Deputy Inspectors General of Police in the Ranges including Railways and all Special Unit officers are requested to constitute the 'Range Promotion Board' in respect of their Ranges / Cities/ Special Units and consider the cases of all the Sub-Inspectors of Police (Taluk) in their Range / City / Special Unit, who have been appointed / promoted on regular basis up to and inclusive of 31.01.2011 and also consider the cases of 161 directly recruited SIs who have been recruited for the year 2010 and appointed under 20% departmental quota in Taluk Police on 01.02.2011 (as mentioned in Seniority list Sl.Nos. from 1 to 161 in the proceedings of the ADGP(Admn) Rc.No.



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014912/Rect.II(1)/2019-1, dated 14.08.2019), and send the Recommendation Rolls to Chief Office in the prescribed format (as in Annexure-I to this memorandum). However, there is no need to send recommendation rolls in respect of SIs (Taluk) whose names were already included in the 'C' list of SIs (Taluk) fit for promotion as Inspector of Police(Taluk) for the panel year 2021-2022."

6. My attention is also drawn to the counter affidavit filed by the department in W.P.No.20894/2022. Paragraph 9 and 20 of the said counter reads as follows:

"9.It is respectfully submitted that the Women Grade I Police Constables of 1990-1991 batch who had been included in the 'C' List of Head Constables (Taluk) fit for promotion as Sub Inspector of Police (Taluk) for the Panel Year 2010, were seniors to the directly recruited SIs of 2011 batch (whose date of appointment as SI (Taluk) is 01.02.2011) based on the fact that the date of declaration of 'B' List as SI (Taluk) ie., date of promotion as SI (Taluk) [in respect of these Women Police personnel had been declared as 26.01.2011].

20.It is respectfully submitted that the Grounds I to K are forcefully denied. As per provision laid down in the Special Rules for Tamil Nadu Police Subordinate Service, an individual holding the post of Head Constable (Taluk), and who has completed 4 years of service and probation in that post and having an overall service of 7 years can be promoted as Sub



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Inspector of Police (Taluk) according to his seniority and merit.

As alleged by the petitioners, there is no 10 years mandatory service prescribed in the said Special Rules for according promotion from the rank of HC to SI. The seniority position of the Women Grade I police Constables of 1990 & 1991 batch had been stepped up only on par with Men Police personnel who had been upgraded as Grade I Police Constables after appointment of these Women personnel. Moreover, the judgment of the Full Bench of this Hon'ble Court, referred to by the petitioners, has no relevance to this case on hand and is not applicable, since the factual matrix and the content therein are different."

7. In view of the stand taken by the department in the other writ proceedings one can safely conclude that the petitioners who were promoted as SIs in the year 2009 are to be considered as seniors to those who were appointed as SIs in the year 2011. The post of Inspector of police is filled up only from the feeder post of Sub Inspector of Police. Therefore, the respondents are directed to consider the case of the petitioners to the post of Inspectors of Police. I am certain that there are vacancies in the post of Inspectors of Police. The Government cannot keep them unfilled indefinitely for a long period of time. It is seen that the memorandum in this regard was issued as early as on 05.06.2022. The petitioners are serving in the post of Sub Inspector of Police for more than 14 years. Therefore, the respondents 1 to 3



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are directed to complete the process of filling up the vacancies in the post of Inspector of Police as expeditious as possible. The case of the petitioners will be considered on merits and in accordance with law for promoting them to the post of Inspector of Police.

8. This Writ Petition is disposed of, accordingly. No costs. Consequently, connected miscellaneous petition is closed.

05.04.2023

NCC : Yes/No

Index : Yes / No

Internet : Yes/ No

Note: Issue order copy on 19.04.2023

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To

- 1.The Secretary to Government, Home Department, Secretariat,
Fort St.George, Chennai - 600 009.
- 2.The Director General of Police,
Office of the Director General of Police,
Dr.Radhakrishnan Salai, Mylapore, Chennai - 600 004.
- 3.The Additional Director General of Police (Admin),
Office of the Director General of Police,
Dr.Radhakrishnan Salai, Mylapore, Chennai - 600 004.
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G.R.SWAMINATHAN, J.

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