

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.08.2015

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.25829 of 2015

B.Gopinath

...Petitioner

Vs.

1. The State of Tamil Nadu
Rep by Secretary to Government,
Home Police (3) Department,
Secretariat,
Fort St.George,
Chennai-600 009.

2. The Director General of Police,
Mylapore,
Chennai-600 004.

3. The Commissioner of Police,
No.132, EVK Sampath Salai,
Near Dinathanthi Office,
Vepery,
Chennai-600 007.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the first respondent to implement the recommendations made by the third respondent by its reference No.Rc.No.Estt.II(1)/25252/2012 dated 18.05.2012 to the second respondent.

For Petitioner : M/s.M.R.Uma Vijayan

For Respondents : Mr.V.Subbiah
Special Government Pleader

O R D E R

By consent, this writ petition is taken up for final disposal.

2. The petitioner would state that he applied for the post of Sub-Inspector of Police during 1994-1995 and though he was declared as successful candidate in the written examination, interview and medical fitness, he did not receive any communication with regard to his appointment and therefore, he filed an Original Application in O.A.No.3608/1998 before the Tamilnadu Administrative Tribunal and the Tribunal, vide order dated 18.11.1998, has directed the respondents to conduct medical examination by constituting a Medical Board and if it is found that the petitioner is qualified, he has to be placed in the said post in the selection list for the year 1994-1995. However, the respondents found out some other tenable reasons and communicated the same, vide their letter dated 08.01.1999 and it was put to challenge in W.P.No.4619/1999 and it was allowed by this Court directing the respondents to place the petitioner for the said post and in compliance of the order, the petitioner was appointed as Sub-Inspector of Police on 05.05.2000 in the selection list of the year 2000 training batch. The petitioner, aggrieved by his placement in the selection list, made repeated representations and since, it has fallen to deaf ears, filed W.P.Nos.14442 and 22214 of 2009 and this Court has upheld the claim of the petitioner to get appointed in the selection list for the year 1994-1995 by giving effect to the date of his selection as 01.03.1996. The official respondents made a challenge to the said order by filing writ appeals in W.A.No.1314 & 1359 of 2010 and it was dismissed, vide common order dated 05.09.2011.

3. The third respondent has addressed a letter No.Rc.No.Estt.II(1)/25252/2012 dated 18.05.2012 to the first respondent pointing out the orders obtained by the petitioner before this Court and therefore, made a request for restoration of the seniority along with his batch mates of the year 1994-1995 and for obtaining necessary orders from the Government. The petitioner sought information under the Right to Information Act and vide communication dated 08.08.2013, the office of the third respondent has informed the petitioner that the matter is still under consideration before the second respondent. Subsequently, the petitioner sought information under the Right to Information Act and the office of the third respondent has sent very same response, vide communication dated 03.03.2015. Since the grievance expressed by the petitioner have not been addressed, he submitted a representation to the Hon'ble Chief Minister Grievance Cell and it was followed by a reminder to the Deputy Commissioner of Police, Headquarters and since no response is forthcoming, came forward to file this writ petition.

4. The learned counsel appearing for the petitioner would submit that the act of the second respondent in not responding to the communication sent by the third respondent would clearly exhibit the lackadaisical attitude shown towards the orders passed by this Court and hence, prays for appropriate orders.

5. Heard the submissions of Mr.V.Subbiah, learned Special Government Pleader, who accepts notice for the respondents.

6. This Court has carefully considered the rival submissions and also perused the materials placed before it.

7. W.P.Nos.14442 and 22214 of 2009 filed by the petitioner for his correct placement was allowed, vide order dated 18.11.2009 and the official respondents, namely State of Tamil Nadu, represented by the Secretary to Government, Home Police (3) Department, Chennai-600009 and the Director General of Police, Chennai, who are arrayed as respondents 1 and 2 had also ended in dismissal, vide common order dated 05.09.2011 and the third respondent has also sent a proposal dated 18.05.2012 to the second respondent for restoration of the seniority of the petitioner along with his batch mates of the year 1994-1995 with a further request to the Government for passing appropriate orders. The petitioner has sought for an information under the Right to Information Act from the office of the third respondent and vide communication dated 08.08.2013 the petitioner was informed that the matter is still under the consideration of the second respondent. It is very unfortunate that though the second respondent was a party to the writ petitions as well as the writ appeals and inspite of the communication sent by the third respondent dated 18.05.2012, for the reasons best known to him, he has kept quiet and it would indicate that he has shown scant disregard to the orders passed by this Court and in-action on his part is highly condemnable and is also deprecated. Be that as it may, the second respondent is expected to act on the recommendation of the third respondent, who is in the rank of Additional Director General of Police, but has failed to act. As already pointed out, the communication from the third respondent dated 08.08.2013 under the Right to Information Act would also exhibit that the proposal is still pending consideration with the second respondent.

8. In the result, this Writ Petition is disposed of with a direction to the second respondent to act on the proposal of the third respondent with regard to the restoration of the seniority of the petitioner along with his batch mates of the year 1994-95 and pass orders within a period of two weeks from the date of receipt of a copy of this order and forward necessary proposal to the first

respondent, who, on receipt of the same is directed to consider the same in the light of the orders passed by this Court in the above said writ petitions as well as in the writ appeals and pass orders within a period of four weeks thereafter and communicate the decision taken to the petitioner. This Court, hope and trust that at least now, the second respondent would act and obey the orders passed by this Court. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

jvm

To

1. The Secretary to Government,
State of Tamil Nadu
Home Police (3) Department,
Secretariat, Fort St.George,
Chennai-600 009.
2. The Director General of Police,
Mylapore, Chennai-600 004.
3. The Commissioner of Police,
No.132, EVK Sampath Salai,
Near Dinathanthi Office,
Vepery, Chennai-600 007.

1 CC to M/s.M.R.Uma Vijayan, Advocate SR.No. 44107

1 CC to the Government Pleader, SR.No. 44445

KV (CO)
cp (04.09.2015)

सत्यमेव जयते
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