

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.03.2015

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.Nos.11691 & 11693 of 2007
(O.A.Nos.6148 & 6150 of 2002)

S.Suseendaran ... Petitioner in W.P.No.11691 of 2007
P.Muthukumar ... Petitioner in W.P.No.11693 of 2007

-vs-

1. The Director General of Police
Kamarajar Salai
Chennai 600 004
2. The Commissioner of Police
City Police Office
Coimbatore 641 018 ... Respondents in both the writ
petitions

Petitions under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, to call for the records on the file of the respondents pertaining to the drawal of 'C' list of Head Constables (A.R.) for the year 1999-2000 in proc.No.29733/2000 and dated 23.01.2001 for the promotion of Sub Inspectors (A.R.) and direct them to include the name of the petitioners in proc.No.29733/2000 and dated 23.01.2001 for the post of Sub Inspectors.

For Petitioners :: Mr.V.Subbarayan

For Respondents :: Mr.K.V.Dhanapalan
Additional Government Pleader

ORDER

O.A.Nos.6148 and 6150 of 2002 were filed by Mr.S.Suseendaran and Mr.P.Muthukumar before the Tamil Nadu Administrative Tribunal, Chennai seeking a prayer for issuance of a writ of certiorarified mandamus, to call for the records of the second respondent pertaining to the drawal of 'C' list of Head Constables (A.R.) for the year 1999-2000 in Proceedings No.29733 of 2000 dated 23.1.2001 for promotion to the post of Sub Inspector of Police (A.R.) and quash the

same with a further direction to include the names of the petitioners in Proceedings No.29733 of 2000 dated 23.1.2001. Later on, the said original applications came on transfer and renumbered as the present writ petitions.

2. Learned counsel for the petitioners submitted that after both Mr.S.Suseendaran and Mr.P.Muthukumar were selected as Grade II Police Constables on 23.12.85 and posted at IX and II Platoons Armed Reserve, Coimbatore city, later on, they were promoted as Head Constables on 1.11.89 and 21.1.93 respectively. Subsequently, they also became eligible and qualified in all aspects for the next promotion as Sub Inspectors of Police. While so, the first respondent, to fill up the posts of Sub Inspectors of Police (A.R.) meant for rank promotees, issued instructions for filling up the said vacancies and for drawal of 'C' list of Head Constables (A.R.) fit for promotion as Sub Inspectors of Police (A.R.) for the year 1999-2000. As per the above instructions, the eligible incumbents had to undergo various tests inclusive of the initial written test. When the total marks allotted to written test were 50, it was mentioned that those who secured 25 marks and above in the said test would alone be called to attend the next phase of promotion process, namely, drill and viva-voce tests. However, on the basis of the negative marking system followed by the respondent-Department, it was found that only four persons qualified for participation in the drill and viva-voce tests. Later on the first respondent, taking into account that only less number of incumbents got qualified for the next phase of promotion process on the basis of negative marking system, cancelled the same and introduced the positive marking system, since more incumbents would become eligible. In view of that, the list of candidates selected through the negative marking system was cancelled. Consequently, when six incumbents became eligible under the positive marking system, 24 names were dropped, as they have not been found selected on the basis of positive marking system.

3. Arguing further, the learned counsel submitted that when Mr.S.Suseendaran and Mr.P.Muthukumar were shown in the selection list dated 11.7.2000 in Serial Nos.19 and 25 respectively, one Mr.N.Sakthivel was also shown in Serial No.27 in the said list. But the first respondent, in the subsequent proceedings bearing Rc.No.290586/NGB.V(2)/2011 dated 26.7.2014, has given a direction in favour of Mr.N.Sakthivel on the basis of the order passed by this Court in W.P.No.8689 of 2006 dated 23.11.2011 and to send necessary proposal for inclusion of his name in the 'C' list of Head Constables (A.R.) fit for promotion as Sub Inspector of Police (A.R.) drawn for the year 1999-2000. When the first respondent-Director General of Police in the aforementioned proceedings dated 26.7.2014 has admittedly come forward to include Mr.N.Sakthivel, HC 1864 for promotion in Coimbatore city, the names of the petitioners, who are admittedly shown above Mr.N.Sakthivel at Serial Nos.19 and 25

respectively, should have been considered above Mr.N.Sakthivel. As it has not been done, suitable directions should be given. Concluding his arguments, he has stated that when this Court had entertained the writ petitions filed by Mr.P.Kuppusamy, HC 740 and Mr.N.Sakthivel, HC 1864 of Coimbatore city and allowed their prayer in W.P.Nos.9316 of 2007 & 8689 of 2006 respectively dated 23.11.2011 directing the respondents herein to include their names in the 'C' list of Head Constables (A.R.) fit for promotion as Sub Inspectors of Police (A.R.) of the year 1999-2000 with due seniority from the date of promotion of their immediate juniors in the existing vacancies taking into account the marks obtained by them in the 1999-2000 selection, both the petitioners cases also should be equally considered.

4. In reply, the learned Additional Government Pleader for the respondents submitted that the prayer of both the petitioners had already been considered, inasmuch as when the case of Mr.N.Sakthivel, HC 1864 was considered, Mr.S.Suseendaran was also given temporary promotion to the post of Sub Inspector of Police (A.R.) on 18.3.2007 and he has also been subsequently made permanent on 27.11.2012. Similarly, in the case of Mr.P.Muthukumar, he was also given temporary promotion as Sub Inspector of Police (A.R.) on 1.6.2008 and subject to the arising of future vacancy, he would also be absorbed permanently. Adding further, he has submitted that when the selection process was initiated for the post of Sub Inspector of Police (A.R.), 30 incumbents participated in the written test. Out of 30, 29 incumbents were selected in the written test as per the proceedings dated 11.7.2000 of the second respondent including the names of Mr.P.Kuppusamy, HC 740, Mr.S.Suseendaran, HC 1853 and Mr.P.Muthukumar, HC 1871. In the said list itself, it was specifically mentioned that all the above Special Sub Inspectors/Head Constables were to attend the drill and viva-voce tests on 18.7.2000 and 19.7.2000 at Armed Reserve Grounds, Coimbatore city at 6 O' clock in the morning. The above selection list was prepared after taking the positive marking system. He has also further submitted that when the negative marking system was followed, only four incumbents passed the test. However, the said selection list was cancelled. Only thereafter, by taking the positive marking system, the list dated 11.7.2000 was prepared. However, only six incumbents became eligible on the basis of positive marking system adopted by the respondents. Therefore, 24 names were dropped. The petitioners were also amongst the 24 names. Since only six vacancies arose as on 3.11.2000 for the post of Sub Inspector of Police (A.R.) in Coimbatore city, the following six SSIs/HCs who have secured the rank as per the gradation list submitted by the Chairman, City Promotion Board, Coimbatore were included in the 'C' list of Hcs/AR fit for promotion to the rank of Sis/AR for the year 1999-2000 as per the instructions issued in the Chief office memo dated 12.5.2000. They are Mr.K.Mohan, HC 1704, Mr.R.Mahendran, HC 1838, Mr.A.Thangarathinam, HC 801, Mr.B.Ayyappasamy, HC 1821, Mr.Jacob, SSI/HC 379 and Mr.T.H.Manidurai,

HC 1127. In the meanwhile, the four incumbents who were selected on the basis of negative marking system approached the Tamil Nadu Administrative Tribunal and obtained an order for inclusion of their names for the post of Sub Inspector of Police (A.R.). The respondents, having accepted the said order, implemented the same. But the petitioners can never be compared with them, since they have not passed the test on the basis of negative marking system. However, when W.P.Nos.9316 of 2007 & 8689 of 2006 were filed before this Court by Mr.P.Kuppusamy, HC 740 and Mr.N.Sakthivel, HC 1864 of Coimbatore city, this Court, while allowing the writ petitions on 23.11.2011, directed the respondents to promote them as Sub Inspectors of Police in future vacancies. In deference to the said orders passed by this Court, the respondents fixed the placement of Mr.P.Kuppusamy and Mr.N.Sakthivel in the 'C' list of Head Constables (A.R.) fit for promotion as Sub Inspectors of Police (A.R.) drawn for the year 1999-2000 in Coimbatore city. Much before the proceedings dated 26.7.2014 were passed by the first respondent, both the petitioners were appointed as temporary Sub Inspectors of Police (A.R.) on 18.3.2007 and 1.6.2008 respectively. Subsequently, Mr.S.Suseendaran was also made permanent in the post of Sub Inspector of Police (A.R.) on 27.11.2012. Therefore, the petitioners cannot have any grievance.

5. This Court finds some force in the submissions made by the learned Additional Government Pleader for the respondents. However, when the respondents have implemented the order passed by this Court in W.P.Nos.9316 of 2007 & 8689 of 2006 respectively dated 23.11.2011 by placing Mr.P.Kuppusamy and Mr.N.Sakthivel in the 'C' list of Head Constables (A.R.) fit for promotion as Sub Inspectors of Police (A.R.), this Court directs the respondents to consider the case of the petitioners also and place them in the appropriate place, of course, on the basis of the marks/position/rank obtained by them in the written test, drill test and viva-voce respectively, in the 'C' list of Head Constables (A.R.) fit for promotion as Sub Inspectors of Police (A.R.). Such exercise shall be undertaken within a period of eight weeks from the date of receipt of a copy of this order. The writ petitions stand disposed of. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

ss

To

1. The Director General of Police
Kamarajar Salai
Chennai 600 004

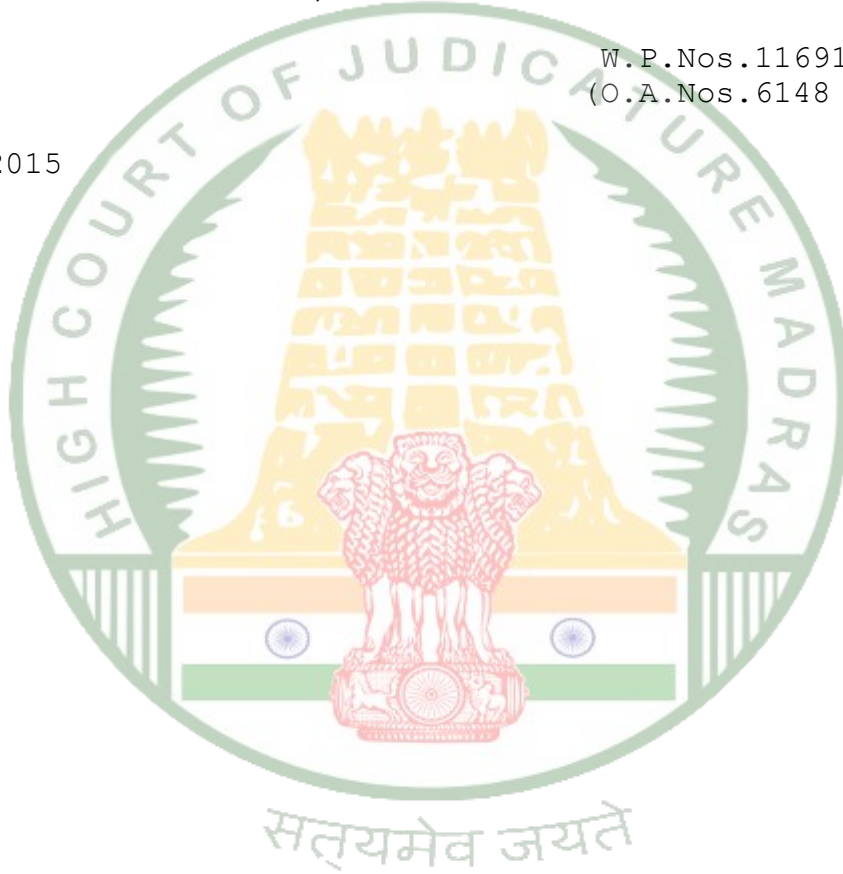
2. The Commissioner of Police
City Police Office
Coimbatore 641 018.

2 cc to Mr. V.Subbarayan,,Advocate, SR.No.16463

1 cc to Government Pleader,Sr.No16693

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SCD(CO)
PMK.30.4.2015



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