

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.10.2016

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THE HON'BLE MR.JUSTICE M.S.RAMESH

W.P.No.20064 of 2011

and

M.P.No.1 of 2011

R.Thiyagarajan
Petitioner

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.Vs.

- 1.Union of India,
Rep.by its Secretary to Government,
Ministry of Home Affairs,
New Delhi.
- 2.The Director General,
National Disaster Response Force,
Head Quarters,
R.K.Puram, New Delhi 110 066.
- 3.The Director General,
Central Industrial Security Force,
Head Quarters,
CGO Complex,
Lodhi Road, New Delhi.110003
- 4.The Deputy Inspector General,
Central Industrial Security Force,
South Zone Head Quarters,
Besant Nagar, Chennai 600 090.
- 5.The Commandant,
4 National Disaster Response Force Battalion,
Suraksha Campus Post,
Arakkonam, Vellore District,
Tamil Nadu 631 152.

..Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India praying to issue a writ of Mandamus to direct the respondents to issue appointment order to the post of Sub-Inspector (Executive) in CISF through Limited Department competitive Examination during 2010 with effect from 06.12.2010 with seniority and to pay all monetary benefits.

For petitioner : Mr.R.Thiyagarajan
(party in person)

For Respondents : Mr.M.Sundar, CGSC

O R D E R

This writ petition has been filed seeking for issuance of Writ of Mandamus to direct the respondents to issue an appointment order to the post of Sub-Inspector (Executive) in CISF through Limited Department competitive Examination during 2010 with effect from 06.12.2010 with seniority and to pay all monetary benefits.

2.The petitioner, Mr.R.Thiyagarajan appeared in person. According to the petitioner, he had applied for the post of Sub-Inspector (Executive), pursuant to which, physical test was held from 09.08.2010 to 18.08.2010 followed by written examination on 19.08.2010. The petitioner's application dated 26.01.2010 was rejected by the fourth respondent/DIG-SZ (Chennai) and the same was forwarded to the fifth respondent with remarks against the petitioner that the petitioner was awarded with punishment of seven days pay fine on 26.09.2005 and hence, the petitioner was not qualified. Challenging the same, the petitioner had filed W.P.No.8210 of 2010 before this Court, which was disposed of on 06.08.2010 by directing the second respondent to accept the petitioner's application dated 26.01.2010 and to issue appropriate orders to enable him to participate in the stage wise departmental competitive examination. Pursuant to the direction, the petitioner was allowed to participate in the recruitment process for LDCE-2010.

3.The petitioner submits that on 16.11.2010, the fifth respondent had informed that the petitioner was not selected to the post of Sub-Inspector (Executive) LDCE 2010 and his application was forwarded to the respondents for revaluation. The petitioner also claims to have sent a reminder dated 06.12.2010 to the fifth respondent requesting them to revalue his examination papers and pass necessary orders. In the meantime on 02.12.2010, the appointments to the post of constables appeared in the LDCE 2010 for the post of Sub-Inspector (Executive), wherein, his juniors have been appointed as Sub-Inspector (Executive) with effect from 02.12.2010. The fifth respondent by his letter dated 21.04.2011 has also informed that the medical board declared fit and appointment order will be issued for the post of Sub-Inspector (Executive) to join basic training in the next batch.

4. The petitioner would further submit that all the other constables had been appointed without basic training and the same was given later but the petitioner has been singled out stating that the appointment order will be issued only after commencement of the next batch of basic training. Hence, the petitioner has filed the present writ petition.

5.Mr.M.Sundar, learned Central Government Standing counsel would contend that the petitioner participated in the written examination and the result of written examination was not published and kept in a sealed cover as they had decided to file an appeal against the order dated 06.08.2010 passed by this Court in W.P.No.8210 of 2010. However, the decision to file an appeal was dropped by the Assistant Legal Adviser. Consequently, the result of the petitioner which was kept in the sealed cover was conveyed to the petitioner stating that he has qualified in the written examination as well as PET. Medical examination was also conducted on 25.03.2011, whereby, the petitioner was declared medically fit.

6.The learned standing counsel would further contend that the petitioner's application dated 19.08.2011 was forwarded to DIF/SZ Hqrs Chennai vide letter dated 20.08.2016 and the matter has been examined at CISF Head Quarters New Delhi and as per message dated 27.10.2011, the petitioner will get his seniority in the rank of Sub-Inspector (Executive) along with the candidates selected to the post of Sub-Inspector (Executive) LDCE 2010. However, the learned standing counsel would submit that the petitioner is not entitled to all monetary benefits with effect from 06.12.2010 as he can be paid with pay and allowance eligible for the particular post from the date of assuming the post. The copy of the message dated 27.10.2011 was produced by the petitioner before this Court .

7.I have perused the affidavit filed by the petitioner, the counter affidavit of the respondents and other documents filed by the respective parties.

8.It is rather unfortunate that the petitioner who was selected to the post of Sub-Inspector (Executive) in the LDCE 2010, has been unnecessarily made to undergo various hardships in view of the conduct on the part of the respondent Officials. The petitioner has earlier been unnecessarily made to file a writ petition due to the laches on the part of the respondents for non-issuing the order of appointment against the petitioner and deprived him from all the services and monetary benefits which he would have been otherwise entitled to, along with his juniors who have been appointed with effect from 02.12.2010. The respondents' submission that the petitioner will be eligible to pay and allowance from the date of assuming the post is not tenable as the laches is attributable to the respondents. None of the reasoning made in the counter affidavit seems to be acceptable to deprive the petitioner from all the benefits for which, he would be entitled to.

9. In the result, this writ petition is allowed. The respondents are directed to pass suitable orders forthwith, appointing the petitioner to the post of Sub-Inspector (Executive) in CISF with effect from the date, when his juniors were appointed to the post of Sub-Inspector (Executive) LDCE 2010 with all services and monetary benefits, at least within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

kkd

To

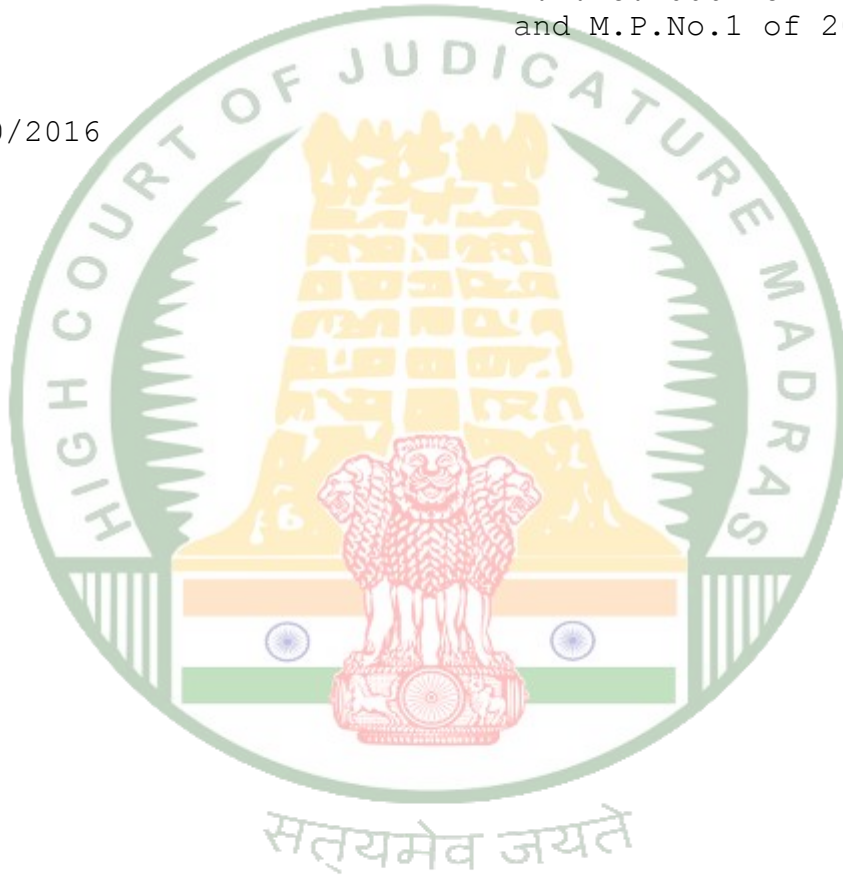
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+1 CC to R. Thiyagarajan, Sr.No.59190

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MD : 26/10/2016



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