

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2016

CORAM:

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.20032 of 2016

D.Suresh Kumar

... Petitioner

vs.

1. The State
rep. by Secretary to Government,
Home Department,
Secretariat,
Chennai 600 009.
 2. The Director General of Police,
Kamarajar Salai,
Chennai 600 004.
 3. The Additional Director General of Police,
Kamarajar Salai,
Chennai 600 004.
- ... Respondents

Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of mandamus directing the 2nd respondent to fix a seniority to the petitioner as on 28.12.1994 or prior to the year 1996, based on the petitioner's representation dated 23.12.2015 and consequently include the petitioner in the seniority list to the post of Deputy Superintendent of Police on par with those appointed as Sub-Inspector of Police prior to the year 1996.

For Petitioner : Mr.R.Singaravelan,
Senior Counsel
for Mr.M.Rajendiran

For Respondents : Mr.K.Dhananjayan,
Special Government Pleader

O R D E R

The petitioner has come up with this Writ Petition seeking a direction to the 2nd respondent to fix seniority to him as on 28.12.1994 or prior to the year 1996, based on his

representation dated 23.12.2015 and consequently include him in the seniority list to the post of Deputy Superintendent of Police on par with those appointed as Sub-Inspector of Police prior to the year 1996.

2. According to the petitioner, he was recruited as Sub Inspector of Police in the year 1994, appointed in the year 1997 and promoted as Inspector of Police on 14.07.2008. Presently, he is working as Inspector of Police in Kadathur, Police Station, Dharmapuri District. Prior to the said appointment, he joined as Junior Assistant on 28.12.1994 in Chennai City Police Office as compassionate appointment for the demise of his father, viz. Devarajan, who died on 26.10.1990 as Sub-Inspector of Police, while working in Trichy.

3. After the demise of his father, the petitioner made a representation to the respondents to provide him compassionate appointment as Sub-Inspector of Police. The 1st respondent passed a Memorandum vide Na.Ka.No.110763/TPP2(1)/94, dated 31.05.1994 stating that his representation would be considered based on his physical endurance and educational qualification. Thereafter, the Superintendent of Police vide proceedings dated 18.07.1994 stated that the petitioner's name was placed in the waiting list of the post viz. Junior Assistant and that since number of persons were waiting in the list, his name was considered for the post of Constable. Pursuant thereto, vide proceedings in Na.Ka.No.VI/42491/94, dated 18.06.1994 with reference to the Chief Office Memo in Na.Ka.No.110763/TPP.2(1)/94, dated 31.05.1994, the 2nd respondent stated that the petitioner has to give his willingness or non-willingness to join as Constable along with his physical fitness and educational qualification, to which, the petitioner informed that he is not willing to join as Constable.

4. At this juncture, vide Chief Office Memo in Na.Ka.No.TPP 2(1)/199770/94, dated 09.09.1994, the petitioner was appointed as Junior Assistant. After receipt of the same, the petitioner joined as Junior Assistant on 28.12.1994, due to his family circumstances. Pursuant to the notification published by the Government in the year 1994 to recruit 500 Sub-Inspectors of Police, the petitioner applied for the said post. He was also recruited on merit based on the said notification and appointed as Sub-Inspector of Police on 04.07.1997 and promoted as Inspector of Police on 14.07.2008.

5. The grievance of the petitioner is that had the Government properly considered his representation on compassionate grounds at the appropriate time in the year 1994, he would have been appointed as Sub-Inspector of Police in 1994 and gained seniority over persons, who were appointed in the years 1996 and 1997. Hence, he made a representation to the

respondents on 23.12.2015 seeking consideration to give him priority as that of other persons, who seek appointment on compassionate grounds. Finding no response, he has approached this Court.

6. When the matter is taken up for consideration, learned counsel for the petitioner, producing an affidavit of the petitioner as an explanation for the delay in making the representation for promotion, submitted that the 'C' list was prepared in December 2015 for promotion to the post of Deputy Superintendent of Police and hence on getting to know the same, the petitioner made a representation on 23.12.2015 to the respondents to include his name in the 'C' list, by considering his grievances. He further submitted that the delay in raising the request for promotion is neither willful nor wanton and sought a direction to the 2nd respondent to consider the petitioner's representation.

7. Heard the learned counsel on either side and perused the material documents available on record.

8. Considering the facts and circumstances of the case and without going into the merits of the case, this Court directs the petitioner to send a copy of the representation dated 23.12.2015 along with a copy of this order to the 2nd respondent within a period of two weeks from the date of receipt of a copy of this order and on receipt of the petitioner's representation, the 2nd respondent is directed to consider the same and pass appropriate orders on merits and in accordance with law within a period of six weeks, thereafter.

The Writ Petition is disposed of with the above direction. No costs. Consequently, connected W.M.P.No.17267 of 2016 is closed.

Sd/-

Asst.Registrar (CS II)

/true copy/

aeb

Sub Asst. Registrar

To:

1. The Secretary to Government,
State of Tamil Nadu
Home Department,
Secretariat, Chennai 600 009.

2. The Director General of Police,
Kamarajar Salai, Chennai 600 004.
3. The Additional Director General of Police,
Kamarajar Salai, Chennai 600 004.

+1cc to Mr.M.Rajendiran, Advocate sr.70453

+1cc to Government Pleader sr.71047

W.P.No.20032 of 2016

lrs(co)
ss(11/01/2017)



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