

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.12.2016

CORAM:

THE HONOURABLE MR.JUSTICE S.MANIKUMAR
and
THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

W.A.No.708 of 2010
and M.P.No.1 of 2010

1. P.Jawahar
2. D.Sevlakkan David
3. P.Pandi Thurai .. Appellants

versus

1. The State of Tamilnadu
rep. by its Secretary to Government,
Home Department,
Secretariat, Chennai - 600 009.

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

Writ Appeal filed against the order dated 14.10.2009 in W.P.No.3455
of 2008.

For Appellants : Mr.B.Ganesha Moorthy
For Respondents : Mr.K.V.Dhanapalan
Special Government Pleader

JUDGMENT

(Order of the Court was made by S.MANIKUMAR, J.)

Appellants / writ petitioners in W.P.No.3455 of 2008, are parties to
the common order made in W.P.Nos.35716 of 2007, etc dated 14.10.2009.
All writ petitions, including W.P.No.3455 of 2008, have been dismissed. At

para No.28, a learned Single Judge, concluded as hereunder.

"28. The discussions made above will draw the following irresistible conclusion:-

(1) The petitioners were not promoted to the substantial post which was available when the G.O., was passed but however, supernumerary posts were created for them for according promotion.

(2) Neither the proceeding of the Director General of Police dated 22.10.2004 nor the proceeding dated 25.10.2004 reveals no individual appraisal of the acts of bravery was considered.

(3) The accelerated promotion board minutes dated 25.10.2004, also does not reveal the consideration of each and every individual acts of bravery.

(4) G.O.Ms.No.400 Home Department dated 19.03.1996 and the subsequent letter of the Government dated 27.01.1997 discloses how and when accelerated promotions have to be granted. However, the guidelines made therein have not been followed while according accelerated promotion in G.O.Ms.No.1252 dated 29.10.2004 and the other promotions made subsequently by passing G.O's.

(5) The Government was well within its power in considering the representations given by the police officers who are seniors to the persons, who have been accorded accelerated promotion and passed the impugned G.O.Ms.NO.1396, Home Department dated 03.10.2007.

(6) The Government was well within its power in deleting para 5(e) in G.O.Ms.No.1252 dated 29.10.2004 and substituting by new one in G.O.Ms.No.1346, Home Department dated

06.12.2004, namely

"The seniority between the accelerated promotees and the general promotees in the promoted category shall continue to be governed by their panel position i.e. with reference to their inter-se-seniority in the lower grade. At any stage the accelerated promotion will not give the individual accelerated consequential seniority, since the accelerated promotion is only for one stage."

(7.) The accelerated promotion was accorded though G.O's and the same was sought to be modified by passing the impugned G.O. which cannot be faulted at all.

(8.) The post in question being selection post, requires consideration of eligible and qualified persons. The accelerated promotion were granted to a chosen individuals without considering their eligibility and that whatever they are qualified for the same.

(9.) Further more, whether accelerated promotion were made under Rule 36(b)(ii)(2) or whether it was accorded as a reward for some act under the accelerated promotion scheme, once the promotion is given effect to, the seniority of the person will be reckoned only under Rule 35. The first proviso to Rule 35(aa) which has been discussed earlier will apply to the case of the petitioners who have superseded their seniors in the feeder category. In effect, it can be said that the impugned G.O enforces first proviso to Rule 35(aa)"

Ultimately, all the writ petitions were dismissed. Being aggrieved by the order made in W.P.No.3455 of 2008 dated 14.10.2009, instant W.A.No.708 of 2010 has been filed.

2. On this day, when the matter came up for hearing, by inviting the attention of this Court to the common order made by the Hon'ble Bench of this Court in W.A.Nos.849 to 854 of 2010, etc, dated 05.04.2013, Mr.K.V.Dhanapalan, learned Special Government Pleader submitted that common order made in W.P.No.35716 of 2007, etc., has been sustained. He therefore, submitted that instant appeal viz., W.A.No.708 of 2010 has to be dismissed.

3. We have perused the common order made in W.A.Nos.849 to 854 of 2010, etc dated 05.04.2013 and find similarity both on law and facts, applicable to the case on hand.

4. For the reasons stated supra, we agree with the contention of the learned Special Government Pleader. Accordingly, the instant Writ Appeal is dismissed. No Costs. Consequently, the connected Miscellaneous Petition is closed.

[S.M.K., J.] [M.G.R., J.]
22.12.2016

Index: Yes/No.
Internet: Yes
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S. MANIKUMAR, J.
AND
M.GOVINDARAJ, J.

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To

1. The Secretary to Government,
State of Tamilnadu
Home Department,
Secretariat, Chennai - 600 009.

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

W.A.No.708 of 2010
and M.P.No.1 of 2010

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