

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.09.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.32823 of 2016

K.Sreedevan

... Petitioner

vs.

1.The Director General of Police,
Law and Order, Chennai-4.

2.The Additional Director General
of Police,
Kilpauk, Chennai-10.

3.The Commandant,
Tamil Nadu Special Police IX Battalion,
Manimutharu,
Tirunelveli District.

... Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of mandamus directing the first respondent to pass orders on the representation dated 9.10.2015 seeking conversion from Tamil Nadu Special Police to Taluk Police as a Sub Inspector of Police within a reasonable time.

For Petitioner : Mr.A.Tamilarajan
For Respondents : Mr.A.Zakir Hussain,
Govt. Advocate.

ORDER

By consent, the main writ petition itself is taken up for final disposal.

2. The petitioner has come up with the present writ petition for a mandamus, directing the first respondent to pass orders on his representation dated 9.10.2015 seeking conversion from Tamil Nadu Special Police to Taluk Police as a Sub Inspector of Police within a reasonable time.

3. The case of the petitioner, in brief, is as follows:-

(a) The petitioner entered into the police service as a directly recruited Grade-II Police Constable through a selection conducted by TNUSRB. Subsequently, he was promoted as Havildar and further promoted as Sub Inspector in Category-III on 3.7.2008. Thereafter, the petitioner was regularly promoted as Sub Inspector on 28.9.2010 and has been serving in the TSP V Battalion for the last six years without any remarks. While so, based on the recommendation of the Police Commission, the Government issued an order in G.O.Ms.No.1512 Home (Police) Department 9.10.1996 approving the scheme of transfer of Sub Inspectors, AR / TSP to the local police as a one time measure subject to the following conditions:-

- (a) He must be a graduate
- (b) Should not have completed 40 years of age.
- (c) Should have completed five years of service as Sub Inspector in AR/TSP Battalion.

Pursuant to the said order, the Sub Inspectors serving in AR/TSP have been sent for prescribed training for conversion to local police.

(b) Subsequently, based on the recommendations of the Police Commission, the DGP suggested that 10% of the vacancies under direct recruitment for the post of Sub Inspectors may be reserved for the Sub Inspectors serving in the AR/TSP for transfer to local police. Following the same, the Government has also issued G.O.Ms.No.1598 Home (Pol.III) Department dated 5.11.1997, as per which the direct recruitment quota for Sub Inspectors will be filled up as follows viz., 20% from direct recruitment, 20% from the departmental candidates, 10% from the Sub Inspectors, AR/TSP apart from 30% reserved for women. The petitioner satisfied all the necessary requisite qualifications for such transfer. The petitioner completed 40 years of age on 16.4.2016, but as per the prescribed qualification, a person seeking transfer should not reach the age of 40 years and completed 5 years of service. In the case of the petitioner, as on 16.4.2016, he crossed the age of 40 and he has put more than five years of service as Sub Inspector. Mentioning all these details, he sent a representation dated 9.10.2015 to the respondents seeking four months exemption for enabling him to be transferred to the local police. Since the same was not considered so far, he has come up with the present writ petition.

4. Today, when the matter was taken up for consideration, learned counsel appearing for the petitioner submitted that in identical situation, this Court, by an order dated 4.4.2014 in W.P.No.8481 of 2014 (M.Shankar v. The Secretary to Government, Home (Police III) Department, Fort St.George, Chennai-9 and three others), granted a positive direction, directing the respondents therein to

consider the representation of the petitioner therein. Hence, following the same, similar order may be passed in this writ petition also.

5. I have also heard the learned Government Advocate, who has taken notice on behalf of the respondents.

6. Keeping the submissions made on either side, I have carefully gone through the materials available on record.

7. The relevant portion of the order dated 4.4.2014 passed by this Court in W.P.No.8481 of 2014 is usefully extracted hereunder:-

" 3. I have considered the above submissions. So far as the higher age limit is concerned, the petitioner has already completed 40 years of age as on 18.3.2013 itself. Therefore, it is for the Government to consider his request as to whether the said Rule has to be relaxed in his favour of the petitioner or not. But so far as the five years of service as Sub Inspector of Police in Special Police Battalion is concerned, the petitioner has completed five years of service as on 20.5.2013 itself. Therefore, no relaxation is now required. At any rate, since the proposal has been submitted by the fourth respondent to the second respondent, it is for respondents 1 and 2 to take further action on the same. But at the same time, it is made clear that this Court does not want to express any opinion as to whether the petitioner is entitled for such relaxation or not. It is absolutely within the domain of the first respondent to decide the said issue going by the facts and circumstances.

4. In view of all the above, the writ petition is disposed of with the following directions:-

(i) The second respondent shall forward the proposal, based on the proposal submitted by the fourth respondent, by her proceedings in Na.Ka.No.A1/3463/ 2013 dated 12.3.2013, to the first respondent within a period of eight weeks from the date of receipt of a copy of this order, if already no such proposal has been submitted by the second respondent to the first respondent.

(ii) The first respondent is directed to consider the said proposal and to pass appropriate orders strictly in accordance with law, by following the procedure established, within a period of eight weeks thereafter."

8. In view of the above facts and circumstance of the case, without going into the merits of the claim made by the petitioner, the petitioner is directed to give a fresh representation seeking conversion from Tamil Nadu Special Police to Taluk Police as a Sub Inspector of Police, to the first respondent along with a copy of this order, within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same, the first

respondent is directed to consider the same and pass appropriate orders, on merits and in accordance with law, within a period of four weeks thereafter. The writ petition is disposed of accordingly. No costs.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

sbi

To

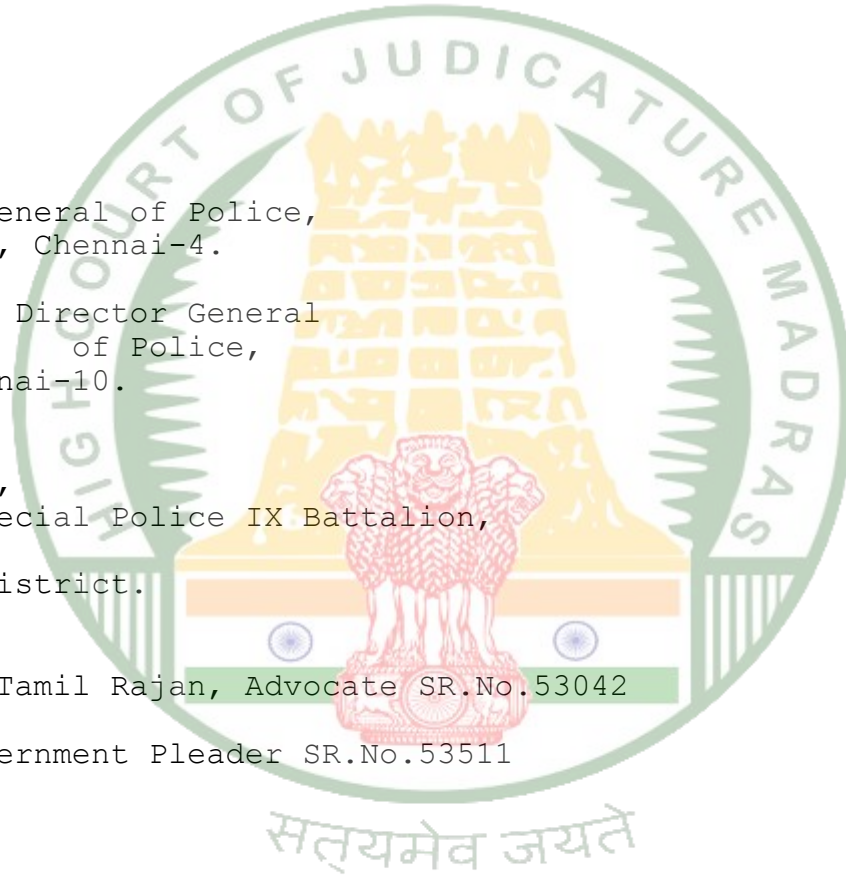
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Tirunelveli District.

+1 CC to M/S.A. Tamil Rajan, Advocate SR.No.53042

+1 CC to The Government Pleader SR.No.53511

CO-PSK

THS : 18.10.2016



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