



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.02.2016

CORAM :

THE HONOURABLE MRS. JUSTICE PUSHPA SATHYANARAYANA

WEB COPY

Writ Petition (MD) Nos.20272 and 20273 of 2014

P.Saravanan ... Petitioner in W.P(MD)No.20272/2014
K.Manimaran ... Petitioner in W.P(MD)No.20273/2014

Vs.

1.The State of Tamil Nadu,
rep by its Secretary,
Home (Police V) Department,
Fort St., George,
Chennai 9.

2.The Director General of Police,
Dr.Radhakrishnan Salai,
Chennai.

3.The Chairman,
Tamil Nadu Uniformed Services
Recruitment Board,
No.49th Cross Street,
Indira Nagar,
Adayar, Chennai 20.

... Respondents in both W.Ps.

Petitions filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the respondent to appoint petitioner as Sub Inspector of Police in pursuance of the cut of marks secured by them in the recruitment process conducted in the year 1997-98 as per the orders of the Tamil Nadur Administrative Tribunal in O.A.No.9825/1998 etc., dated 19.07.2001 and also based on Judgment passed in SLP No. 21828/2006 in Civil Appeal No. 7667/14 etc dated 07.08.2014 and disburse all service and monetary benefits.

For Petitioner : Mr.S.Chellapandian for
Mr.S.Mathavan

For Respondents : Mrs.S.Bharathi,
Government Advocate

ORDER

The petitioners had participated in the selection process for the post of Sub Inspector of Police under direct recruitment process in the year 1997-1998 and also underwent physical test and written examination and they were successful and were called for interview and were awaiting results.



2.The petitioners belong to the backward class community and the cut off mark fixed for the said category was 68.93 whereas the petitioners had secured 73.81 and 76.25 marks respectively in the said selection. Therefore, they were under the impression that they would be called for training after issuing appointment order. The cut off was fixed for Madurai range was 79.68 which is over and the cut off mark fixed for the other ranges particularly the cut off mark fixed for Ramanathapuram range. The candidates who had secured over and above 68.93 were disqualified from the selection process. Therefore, a few of the candidates had challenged the selection process before the Tamil Nadu Administrative Tribunal in O.A.No.9825 of 1998. The Tribunal allowed the said O.A., and directed the respondents to appoint the candidates who have secured more than 68.93 marks. Despite the same, the respondents continued to appoint candidates on their own choice which resulted in a batch of writ petitions being filed before the Principal Bench of this Court.

3.The learned single Judge dismissed the writ petitions on the ground of delay and laches and the writ appeals preferred against the same met with the same fate. In the Special Leave Petition filed before the Hon'ble Supreme Court, the order of this Court was set aside and directing the respondents to appoint the appellants therein who have secured more than the cut off mark namely, 68.93 marks in the post of Sub Inspector of Police with immediate effect. The Hon'ble Supreme Court further directed the respondents to fix the seniority of the appellants therein on par with the Sub Inspectors who were working on the relevant date.

4.The petitioners herein had also made representations to the respondents on 15.09.2014 and 26.08.2014 to extend the same benefits to them as they had secured 73.81 and 76.25 marks respectively, which is over and above the cut off mark 68.93 fixed for the Ramanathapuram Range. The petitioner in W.P(MD)No.20272 of 2014 filed a writ petition in W.P.No.35683 of 2004 before the Principal Bench of this Court which was dismissed on the ground of laches. The petitioner in W.P(MD)No.20273 of 2014 filed a writ petition in W.P.(MD)No.3776 of 2006 which was dismissed as withdrawn.

5.The grievance of the petitioners is that at least after the order of the Supreme Court the respondents ought to have extended the same benefit given under the said order to the petitioners. Hence, the petitioners have come up with the above writ petitions.

6.Similarly placed persons like that of the petitioners had filed a batch of writ petitions along with W.P.Nos.26325 of 2014 before the Principal Seat of this Court. The said batch of writ petitions were disposed of on 27.01.2016 considering all the



relevant judgments including the judgment of the Hon'ble Supreme Court in K.K.Senthilkumar's case, dated 07.08.2014.

7. While dealing with the batch of writ petitions, this Court categorized the aspirants for the said post into three categories. The first category would be with respect to the petitioners who have obtained orders passed by the Division Bench of this Court for consideration based on the order passed by the Hon'ble Supreme Court in K.K.Senthilkumar's case and those cases pending on the date of the order passed by the Supreme Court. The second category would be that the cases which were filed before the Principal Bench on the basis of the order passed by the Hon'ble Supreme Court in K.K.Senthilkumar's case. The third category relates to those cases which were filed for the first time before the Principal Bench of this Court based on the K.K.Senthilkumar's case. The relevant discussion in paragraph 3 of the said judgment is as follows:-

"3. This Court, upon going through the contents of the writ petitions and the above cited orders rendered by the Tribunal, Division Bench of this Court and the Hon'ble Supreme Court of India and upon hearing the submissions made by the respective learned counsel appearing for the writ petitioners and the learned Advocate General appearing for the State, is of the view that the cases in which arguments have been advanced, can be categorized as follows for the purpose of disposal.

Category-I

(A) Orders passed by the Division Bench remanding for consideration based on the order passed by the Hon'ble Supreme Court of India in K.K.Senthil Kumar's case. (B) Cases pending on the date of the order passed by the Hon'ble Supreme Court of India in K.K.Senthil Kumar's case

Category II

(A) Cases filed before the Principal Bench on the basis of the order passed by the Hon'ble Supreme Court of India in K.K.Senthil Kumar's case.

(B) Cases filed before the Madurai Bench of this Court on the basis of the order passed by the Hon'ble Supreme Court of India in K.K.Senthil Kumar's case.

Category III

(A) Fresh case filed before the Principal Bench based on the above cited order passed by the Hon'ble Supreme Court of India in K.K.Senthil Kumar's case

(B) Fresh cases filed before the Madurai Bench of this Court based on the above cited order passed by the Hon'ble Supreme Court of India in K.K.Senthil Kumar's case".



8.Learned counsel for the petitioners would contend that the Hon'ble Supreme Court had set aside the method adopted by the State Government in resorting to zone-wise selection and also given a finding that the ground of delay and laches could not be attributed to the petitioners when a mass selection is being conducted as the same would result in deserving and meritorious candidates being ignored.

9.In the case on hand, the cut off mark obtained by the petitioners which is higher than those candidates who have got selected on account of zone-wise selection and the petitioners also belong to the backward class community.

10.Admittedly, the bench mark fixed by the respondents is 68.93. The range wise selection and the cut off fixed by the respondents had created this confusion where even persons who had secured lower than the petitioners were called for interview.

11.The learned single Judge in W.P.No.26325 of 2014 dated 27.01.2016 had observed that mere withdrawal of the earlier writ petition for the same relief does not preclude the petitioner from filing the present writ petition and I am also in agreement with the same. The other aspect with respect to the delay and laches on the part of the petitioner, it is seen that the petitioner had approached this Court on an earlier occasion by filing writ petition which was dismissed. However, the Supreme Court had given a reasonable time to approach the Court for the redressal of their grievance. Based on which the present writ petitions have been filed.

12.Insofar as the petitioners are concerned, they would fall in the second category as per the decision made in a batch of writ petitions in W.P.Nos.26325 of 2014, dated 27.01.2016. Though the respondents have not filed a separate counter, agreed that the petitioners fall under the second category and they are entitled for the said post.

13.In the meanwhile, the petitioner in W.P(MD)No.20273 of 2014 had participated in the selection of Police Constable, Grade II and joined in the uniformed services. Similarly, the petitioner in W.P(MD)No.20272 of 2014 had participated in the selection of Sub Inspector of Police and joined in the uniformed services.

14.In the result, W.P(MD)No.20273 of 2014 is disposed of with a direction to the respondents to give an order of appointment to the petitioner posting him as Sub Inspector of Police subject to his antecedents and physical efficiency and the respondents shall also take note of the fact that the petitioner at present is serving as Grade I Police Constable at Armed Reserve Police, Madurai City and pass appropriate orders within a period



of three months from the date of receipt of a copy of this order. Since the petitioner in W.P.(MD)No.20272 of 2014 is holding the post of Sub Inspector of Police, no specific direction is required. Accordingly, W.P(MD)No.20272 of 2014 is disposed of. No costs.

Sd/-

Assistant Registrar(Crl.Side)

/True Copy/

Sub Assistant Registrar

To

- 1.The Secretary,
Home (Police V) Department,
State of Tamil Nadu,
Fort St., George,
Chennai 9.
- 2.The Director General of Police,
Dr.Radhakrishnan Salai,
Chennai.
- 3.The Chairman,
Tamil Nadu Uniformed Services
Recruitment Board,
No.49th Cross Street,
Indira Nagar,
Adayar, Chennai 20.

+2cc to Mr.Madhavan,Advocate Sr.No.10116,10115

+2cc to Spl.GOvernment Pleader Sr.No.9975,8541

sms

AA/JGB-DP/01.03.2016/5p-8c

Order made in
Writ Petition (MD) Nos.20272
and 20273 of 2014
18.02.2016