



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :11.07.2016

CORAM

THE HONOURABLE MR.JUSTICE **T.RAJA**

W.P(MD)Nos.6194 and 6200 of 2014

A.Madhavan .. Petitioner in W.P(MD)No.6194 of 2014

K.Mohan .. Petitioner in W.P(MD)No.6200 of 2014

vs.

1.The Director General of Police,  
Office of the Director General of Police,  
Mylapore, Chennai - 4.

2.The Commandant,  
TSP IX Battalaian Manimuthar,  
Tirunelveli District. .. Respondents in both W.Ps.

**COMMON PRAYER:** Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus to call for the records of the 2<sup>nd</sup> respondent's impugned order in R.C.No.A2/13284/2013, dated 29.10.2013 and quash the same as illegal and consequently complying the order in W.P(MD)Nos.1206 to 1209 of 2009, dated 16.10.2010 and G.O.(2D).No.67, dated 24.02.2011 and give the seniority to the petitioners from the year 2007-2008.

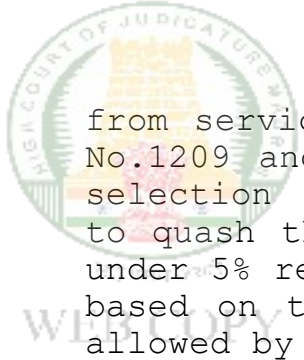
For Petitioner :Mr.H.Velavadhas  
For Respondents :Mrs.S.Bharathi,  
Government Advocate

### COMMON ORDER

Since the issue raised in both the Writ Petitions, is one and the same, the same have been taken up together and disposed of by this common order.

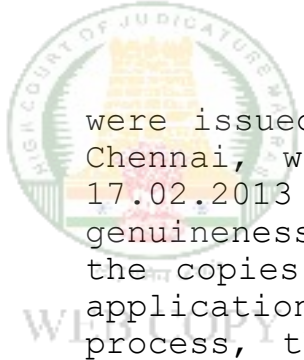
2. The petitioners have brought these Writ Petitions challenging the correctness of the impugned order refusing them to give seniority along with his batch mates in the year 2007-2008.

3. The learned counsel for the petitioners would submit that the petitioners joined in Army Service on 28.04.1988 and 19.04.1988 and after completing 17 years of service in the Indian Army, retired



from service on 30.04.2005. Thereafter, they have filed W.P(MMD) No.1209 and 1208 of 2009 before this Court challenging the police selection notification in Na.Ka.No.A1/4747/2007, dated 15.04.2008, to quash the same, with a request to consider them for appointment under 5% reservation to ex-servicemen, as Police Constable Grade II, based on the written test conducted on 03.08.2008, which was also allowed by this Court on 16.12.2010 with a direction to the Director of Tamil Nadu Uniformed Services Recruitment Board, Chennai, to follow 5% reservation to ex-servicemen in Group "C" Posts. After sometime, G.O.(2D).No.67, dated 24.02.2011 was issued reserving 5% vacancies to the Ex-serviceman in Group "C" Posts. But the petitioners were not selected by the Recruitment Board during the year 2007-2008. Therefore, they were not sent for basic training along with their batch mates and finally, they were given appointment on 23.01.2013 with instructions to report at Avadi for basic training on 17.02.2013. Subsequently, their probation period was completed on 16.02.2014. With this background, the claim of the petitioners is that they should have been selected by the Tamil Nadu Uniformed Services Recruitment Board in the year 2007-2008 for the reason that due to lapses on the part of the Tamil Nadu Uniformed Services Recruitment Board, they were not able to get orders along with their batch mates in the year 2007-2008. Therefore, a direction should be given to count their services along with their batch mates of 2007-2008. Their batch mates were appointed as Grade II Police Constable in the year 2008 and they are working as seniors to him. Therefore, the petitioners should be deemed to have been appointed on bar with their batch mates in the year 2007-2008. If it is accepted, their seniority will flow along with batch mates. From that perspective, it is pleaded that the impugned proceedings is liable to be set aside.

4. The learned Government Advocate appearing for the respondents based on the ground taken in the counter affidavit would submit that to implement the order passed by this Court in W.P(MD)Nos.1206 to 1209 of 2009, dated 16.12.2010, the Government has issued G.O.(2D) No.67, Home (Pol-III) Department, dated 24.02.2011, with a direction to comply with the order, dated 16.12.2010 of this court and appoint the petitioners as Grade II Police under 5% reservation of Ex-servicemen in Group 'C' Posts, subject to the completion of all other selection process successfully. At that time, the Election Commission of India, New Delhi announced State Legislative Assembly and issued notification for the same on 19.03.2011. As a result, Election Code of Conduct was in force till 18.05.2011. Subsequently, the petitioners were issued with an endorsement by the Deputy General of Police, Chennai - 4 in Rc.No.122537/Rect./I(2)/2009, dated 11.06.2011 informing the petitioners that the basic training for recruitment of Grade II Police for the year 2009-2010 was commenced on 01.02.2011 and nearly four months had gone by in the 5 ½ months basic training and the petitioners would be sent for basic training in the next batch. In view of the above reasons, after a thorough police verification regarding the character and antecedents of the petitioners, they



were issued with an appointment order by the Commandant, R.C.Avadi, Chennai, with instructions to report at the Regimental Center on 17.02.2013 for the basic training. When the verification on the genuineness of the service of the petitioners in the Indian Army and the copies of certificates sent by the petitioners along with the application for the recruitment of Grade II Police, was under process, the petitioners filed W.P(MD)Nos.1209 and 1208 of 2009 before this Court with a request to consider them for appointment under 5% ex-servicemen quota and therefore, in view of the pendency of the Writ Petition, no action was taken till the disposal of the same. Further, the petitioners reported for the basic training only on 17.02.2013 and therefore, they are not entitled for seniority prior to the date of their joining in the Regimental Center, Avadi, Chennai.

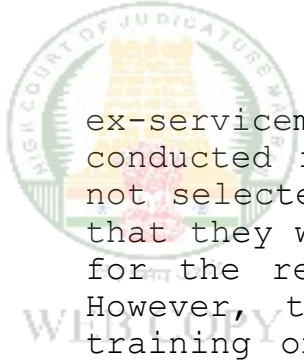
5. I find some merits in the submission made by the respondents. The petitioners were issued with endorsement by the D.G.P, Chennai in Rc.No.1224537/Rect./I(2)/2009, dated 11.06.2011 informing the petitioners that the basic training for recruitment of Grade II Police for the year 2009-2010 was commenced on 01.02.2011 and nearly four months had gone by in the 5 ½ months basic training and the petitioners would be sent for basic training in the next batch and therefore, the petitioners reported for the basic training only on 17.02.2013. Therefore, the respondents are right in counting their services only from 17.02.2013. It is also for yet another reason that when the petitioners batch mates of 2007-2008 were selected by the Tamil Nadu Uniformed Services Recruitment Board, the petitioners were not found selected along with their batch mates of 2007-2008. Therefore, when they were selected subsequently, they were sent for basic training and they had also joined the basic training on 17.02.2013, this Court is not able to find any error in the impugned order passed by the second respondent.

6. Further, G.O.(2D) No.67, Home (Pol-III) Department, dated 24.02.2011, was issued to implement the order passed by by this Court in W.P(MD)Nos.1206 to 1209 of 2009, dated 16.12.2010, wherein it has been directed as follows:

**"...16. In view of the above findings, the first respondent is directed to follow 5% reservation to Ex-servicemen in Group 'C' Posts hereafter and consider the claim of the petitioners for selection and appointment to the Post of Grade II Police Constable under the Ex-servicemen category for the year 2007-2008 and issue appointment orders to the petitioners within a period of four weeks from the date of receipt of a copy of this order..."**

7. A mere reading of the above said paragraph clearly shows that the Government had decided to reserve 5% vacancies to ex-servicemen for appointment in Group-C Posts and accordingly, as per the direction from the Government, 5% vacancies were set apart for

<https://hosevices.ecourts.gov.in/hseervices/>



ex-servicemen, who were qualified in the written examination conducted for group-C posts. However, when the petitioners were not selected along with his batch mates in 2007-2008 on the ground that they were not fit for physical efficiency test, the petitioners for the reason best known to them, had not challenged the same. However, they were issued with an order to join in the basic training on 17.02.2013 and accordingly, they joined from the said date. Therefore, the petitioners are entitled to claim seniority only from 17.02.2013.

8. In view of the above forgoings, this Court is not inclined to set aside the impugned proceedings, issued by the second respondent, dated 29.10.2013. Hence, the Writ Petitions are dismissed. No Costs.

Sd/-  
Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

pm

To

1.The Director General of Police,  
Office of the Director General of Police,  
Mylapore, Chennai - 4.

2.The Commandant,  
TSP IX Battalaian Manimuthar,  
Tirunelveli District.

+1 cc to Mr.H.VELAVADHAS,Advocate, Sr.No: 35585

+2cc to M/S Special Government Pleader, Sr No.35636,35807

JAM/PV/14.09.16/ 4P-6C

W.P (MD) Nos.6194 and 6200 of 2014

11.07.2016