



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 01.12.2016

CORAM :

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

W.P. (MD) .No.4470 of 2013

Srinivasan

.. Petitioner

.Vs.

1.The State of Tamil Nadu,
rep. by its Secretary to Government,
Home Department,
Fort St. George, Chennai.

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

3.The Commissioner of Police,
Trichy-20.

4.S.Anandaraj

5.G.Veerasamy

6.C.Pandian

7.S.Chinnaiah

8.S.V.Muthu Arunagiri

9.C.Mathivanan

10.K.Rajmohan

11.M.Gunaseelan

12.K.Lakshmanan

13.N.Venkatesh Babu

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the 3rd respondent to promote the petitioner as a Head Constable with effect from 08.11.2001 instead of 15.08.2005 based on the representation given by the petitioner dated 28.01.2013 on par with the promotion given to the respondents 4th to 13th by order of 3rd respondent in his proceedings in C.No.A6/13477/2009 dated



15.02.2010 and in C.No.A6/11497/2011 dated 26.09.2012 with all consequential benefits.

For Petitioner : Mr.G.Kandha Vadivelan

For Respondents : Mr.K.Guru, (for R1 to R3)
Additional Government Pleader

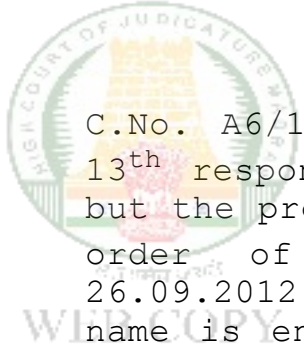
No Appearance (for R4 to R13)

O R D E R

This writ petition is filed to issue a Writ of Mandamus, directing the 3rd respondent to promote the petitioner as a Head Constable with effect from 08.11.2001 instead of 15.08.2005 based on the representation given by the petitioner dated 28.01.2013 on par with the promotion given to the respondents 4th to 13th by order of 3rd respondent in his proceedings in C.No.A6/13477/2009 dated 15.02.2010 and in C.No.A6/11497/2011 dated 26.09.2012 with all consequential benefits.

2.The brief facts of the Writ Petition are that the petitioner was selected as Grade-II Constable on 16.06.1993 in the police department. He was appointed in the Tamil Nadu Special Police Force as Grade-II Constable at Trichy after completion of his training. Thereafter, in 1997 he was transferred to Chennai City Armed Reserve Police at the same capacity. Since the petitioner had qualification for driver, from 10.01.1998 he started to serve as driver in the Motor Transport at Trichy City Armed Reserved Police. Thereafter on 28.10.2004, the petitioner was promoted as Grade-I Constable and was further promoted as Head Constable on 15.08.2005. The further case of the petitioner is that though the petitioner was serving as driver, he was doing all sorts of duty as that of other Police Constables. As a as the seniority is concerned, it is common among Police Constables as per the seniority list maintained by the 2nd and 3rd respondents and no internal divisions are there in the seniority list is concerned. As far as the 4th respondent is concerned, he is senior to the petitioner and the 5th to 8th respondents are enlisted in the seniority list along with the petitioner on 16.06.1993. As far as the 9th respondent is concerned, he is senior to the petitioner on age wise, but the 10th respondent is concerned he is the junior to the petitioner as such the 11th to 13th respondents are junior to the petitioner in the enlistment.

3.The further case according to the petitioner is that the 4th to 8th respondents were promoted as Head Constable on 27.01.2005 with effect from 08.11.2001 by the order of the 3rd respondent in



C.No. A6/13477/2009 dated 15.02.2010. Further, though the 9th to 13th respondents were promoted as Head Constables on 15.08.2005, but the promotion was given with effect from 08.11.2001 as per the order of the 3rd respondent in C.No.A6/11497/2001 dated 26.09.2012. Though the petitioner is their batch-mates and his name is enlisted on the date of their enlistment, his promotion was not considered as that of the 4th to 13th respondents.

4.The petitioner has filed additional typed set of papers wherein, he has enclosed the order copy of several writ petitions passed by the Division Bench of this Court and also the Government Orders. On the other hand, counter affidavit was filed by the 3rd respondent stating that since the petitioner got inducted himself into the Specialized Category of Motor Transport Branch as driver, the petitioner has been maintaining his seniority only from 1999 onwards. According to PSO 44, specialized list for promotion is maintained in the Armed Reserve, Thiruchirapalli City for the general line and for the specialized line. Further promotions were given according to the vacancy arisen which would be meant for General line. Hence, the petitioner who got inducted himself in the specialized category of drivers; he has no claim for promotion in the General line. Therefore, he sought for the dismissal of the Writ Petition.

5.I heard Mr.G.Kandha Vadivelan, learned counsel appearing for the petitioner and Mr.K.Guru, learned Additional Government Pleader appearing for the respondents 1 to 3 and there was no representation on behalf of the respondents 4 to 13 and all the materials available on record are perused.

6.The claim of the petitioner is that he has to be given promotion along with the respondent Nos. 4 to 13 who are all enlisted on 16.06.1993 as Grade-II Constable as that of the petitioner. However, the 3rd respondent has stated that the petitioner has no claim for promotion as he has inducted himself in the specialized category of driver. Further, it is stated by the 3rd respondent that necessary proposals were sent to the Government to amend the Rule 3(a) of Tamil Nadu Special Rules for Tamil Nadu Police Subordinate Service with regard to maintaining of common seniority. Since the proposals sent to the Government are awaited for its result, this Court without going into the merits of the case considers, it would be suffice to give a direction to the respondents Nos. 1 to 3.

7.In the result:

(a) this writ petition is disposed of with direction to the Respondents 1 to 3 to consider the representation of the petitioner dated 16.02.2012 and 28.01.2013 as per the Tamil Nadu Police Subordinate Service Rules;



(b) the said exercise shall be completed within a period of four weeks from the date of receipt of a copy of this order. No costs.

sd/-

Assistant Registrar(CS III)

WEB COPY

/True copy/

Sub Assistant Registrar

To

1.The Secretary to Government,
Home Department,
Fort St. George, Chennai.

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

3.The Commissioner of Police,
Trichy-20.

+1cc to Mr.P.Ganapathi Subramanian,Advocate,SR.78808

+1cc to M/S.Special Government Pleader,SR. 79032

W.P. (MD) .No.4470 of 2013
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VSA/SKN

KK/SKN RSK/SAR2/30.07.2017/4P-6C