

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.12.2017

CORAM

THE HON'BLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HON'BLE MR.JUSTICE RMT.TEEKAA RAMAN

Writ Appeal No.1047 of 2014

K.Prabakaran .. Appellant/Petitioner

Vs.

- 1.The Government of Tamil Nadu,
rep.by its Secretary,
Home Department, Fort St.George,
Chennai-600 009.
 - 2.The Director General of Police,
Mylapore, Chennai-600 004.
 - 3.The Inspector General of Police
(Administration),
Office of the Director General of Police,
Chennai-600 004.
 - 4.The Commissioner of Police,
Coimbatore City, Coimbatore.
- .. Respondents/Respondent

Appeal filed under Clause 15 of the Letters Patent, against the order passed by this Court dated 10.06.2014 in W.P.No.34701 of 2013.
WP 34701/2013

Petition filed under Article 226 of the Constitution of India, Praying for the issue of writ of certiorarifiedd Mandamus to Call for the records of the 4th respondent in his proceeding Rc.No.N2/ 47798/2009 dated 19.11.2013 and quash the same and consequently direct the respondents herein to forthwith promote the petitioner as Sub Inspector of Police (AR) for the year (1999-2000) based on the seniority in the feeder post of Head Constable

For Appellant : Mr.P.Muthukrishnan

For Respondents : Mr.K.Venkataramani,
Addl.Advocate General, assisted by

Mr.R.Prathap Kumar, AGP

JUDGMENT

(Judgment of the Court was delivered by
HULUVADI G.RAMESH, J.)

This writ appeal has been filed against the order passed by this Court dated 10.06.2014 in W.P.No.34701 of 2013.

2.The appellant herein and one P.Rajan, who are Head Constables in the Armed Reserve, Coimbatore City, made representations for inclusion of their names in the "C" List of Head Constables (AR) fit for promotion to the post of Sub Inspector of Police for the year 1999-2000. Thereafter, they came to this Court by filing a writ petition in W.P.No.3666 of 2009 for a larger relief. However, they confined their relief for a direction to dispose of their representations. Accordingly, the said writ petition was disposed of by this Court on 25.06.2009 directing the first respondent therein to dispose of their representations. Pursuant to the same, the fourth respondent herein has passed an order in Rc.No.N2/47798/2009 dated 19.11.2013 declining to include the names of the appellant and the said Rajan for promotion to the post of Sub Inspector of Police (AR) for the year 1999-2000. As per the said order, they were considered for promotion to the post of Sub Inspectors of Police, along with others, who were also petitioners in W.P.No.3666 of 2009. However, since the appellant and the another person, did not secure the cut off marks of 65, they were not selected, while the persons, who secured 65 marks were given promotion. Hence, they filed a writ petition in W.P.Nos.34701 and 34702 of 2013 and the same was dismissed by this Court by order dated 10.06.2014 observing that since they have not secured the cut off marks, they have no right to seek for a direction to include their names in the "C" List of Head Constables (AR) fit for promotion to the post of Sub Inspector of Police for the year 1999-2000. Challenging the said order, the writ petitioner in W.P.No.34701 of 2013 has come up with the present writ appeal.

3.The learned counsel for the appellant has submitted that the learned single Judge has erred in dismissing the writ petition without looking into the fact that the appellant need to be subjected to Range Promotion Board which was already cancelled by taking a policy decision vide G.O.Ms.No.1055, Home Department, dated 11.11.2006. It is further submitted that the juniors of the appellant were given promotion as Sub-Inspector of Police through the Range Promotion Board and had the appellant's seniority been fixed by taking into account the date of his enlistment as Constable Grade-II along with those

persons, he would have been selected as Sub-Inspector of Police on par with them and subsequently been promoted as Inspector of Police also.

4. Heard the learned Addl. Advocate General appearing for the respondents on the submissions made by the learned counsel for the appellant.

5. It appears that as far as promotion is concerned, up to the year 2006, there was no Range Promotion Board constituted. Till 2006, the Head Constables were promoted to the next level, ie., Sub-Inspector of Police on the basis of the examination conducted by the Range Promotion Board. The appellant herein, though participated in the examination conducted by the Range Promotion Board, was not selected as he had not secured the eligible cut-off marks. The persons who participated in the examination conducted by the Range Promotion Board and succeeded in the same, have been granted promotion to the next cadre. In the year 2006, the Range Promotion Board was scrapped and thereafter promotions were effected by following due seniority.

6. It is the case of the appellant that he should be promoted to the next avenue, ie, Sub-Inspector of Police, as per seniority to be fixed by taking into account the date of his enlistment as Constable Grade-II. This cannot be done, as prior to the year 2006, the only way for promotion to the Sub-Inspector of Police was to qualify in the examination conducted by the Range Promotion Board. Having participated in the examination conducted by the Range Promotion Board for promotion, and subsequently did not obtain the required cut-off marks to qualify in the examination, the appellant cannot seek to consider him above his juniors who have already passed in such examination and got promoted and placed above the appellant and accordingly the seniority of the appellant cannot be fixed right from the date of his enlistment as Constable Grade-II.

7. However, from the year 2006, the Range Promotion Board was scrapped and as of now, promotions are made only taking into account the seniority of individuals. Having regard to the fact that the appellant who had attended the examination conducted by the Range Promotion Board and was not able to succeed, he could not be placed above his juniors taking into account his seniority right from the date of enlistment as Constable Grade-II. Hence, so far as considering promotion from the Head Constable cadre to Sub-Inspector of Police cadre, it is for the Department to consider the case of the appellant as it is in vogue from the year 2006, based on seniority, in accordance with law. The said exercise shall be carried out by the respondents within a period of three months from the date of receipt of a

copy of this judgment.

8.The writ appeal is disposed of accordingly. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

KM

To

- 1.The Secretary to Government,
Government of Tamil Nadu,
Home Department, Fort St.George,
Chennai-600 009.
 - 2.The Director General of Police,
Mylapore, Chennai-600 004.
 - 3.The Inspector General of Police
(Administration),
Office of the Director General of Police,
Chennai-600 004.
 - 4.The Commissioner of Police,
Coimbatore City, Coimbatore.
- +1cc to Mr.P.Muthukumar, Advocate, S.R.No.87362

W.A.No.1047 of 2014

VGI(CO)
RRK(17/01/2018)

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