

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.02.2017

CORAM

THE HONOURABLE MR. JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR. JUSTICE V. PARTHIBAN

Writ Petition No.17826 of 2011
and
M.P.No.1 of 2011

M.RAMASUBRAMANI I.P.S. .. Petitioner
Versus

- 1 THE CENTRAL ADMINISTRATIVE TRIBUNAL
REP. BY ITS REGISTRAR, MADRAS BENCH,
HIGH COURT BUILDINGS, CHENNAI 104.
- 2 THE UNION OF INDIA
REP. BY ITS SECRETARY TO GOVERNMENT
MINISTRY OF HOME AFFAIRS, NEW DELHI.
- 3 THE GOVERNMENT OF TAMILNADU
REP. BY ITS SECRETARY TO GOVERNMENT
HOME (POL.IA) DEPARTMENT
CHENNAI - 9
- 4 THE UNION PUBLIC SERVICE COMMISSION
REP. BY ITS CHAIRMAN,
NEW DELHI.
- 5 MAHESH KUMAR AGGARWAL, IPS
THEN DEPUTY COMMISSIONER OF POLICE
TRAFFIC (SOUTH), GREATER CHENNAI, EGMORE, CHENNAI - 8.
PRESENTLY, SUPERINTENDENT OF POLICE
CENTRAL BUREAU OF INVESTIGATION
ACB, CHANDIGARH, PUNJAB.
- 6 G.VENKATARAMAN, IPS.
SUPERINTENDENT OF POLICE
CENTRAL BUREAU OF INVESTIGATION
ACB, SHASTRI BHAVAN, CHENNAI - 6.
- 7 VINITH DEV WANKHEDE, IPS.
SUPERINTENDENT OF POLICE
VIDEO PIRACY CELL, CID, CHENNAI - 2.

PRESENTLY, SP/JOINT DEPUTY DIRECTOR
INTELLIGENCE BUREAU, NEW DELHI.

- 8 SANJAY MATHUR, IPS.
SP/JOINT DY. DIRECTOR, SIB,
MINISTRY OF HOME AFFAIRS, AHMEDABAD,
PRESENTLY SP/FIRST SECRETARY
HIGH COMMISSION OF INDIA,
ISLAMABAD, PAKISTAN.
- 9 S. DAVIDSON DEVASIRVATHAM, IPS.,
DEPUTY COMMISSIONER OF POLICE
TRAFFIC, MADURAI CITY,
PRESENTLY SP / ZONAL DIRECTOR
NARCOTICS CONTROL BUREAU,
RAJAJI BHAVAN, CHENNAI 600 090.
- 10 SANDEEP MITTAL, IPS.
DEPUTY COMMISSIONER OF POLICE
HEADQUARTERS, MADURAI CITY
PRESENTLY ZONAL DIRECTOR
NARCOTICS CONTROL BUREAU,
R.K.PURAM, NEW DELHI - 66.
- 11 B. BALA NAGADEVI, IPS.
SUPERINTENDENT OF POLICE,
SVP NATIONAL POLICE ACADEMY
HYDERABAD.

... Respondents

Writ Petition has been filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the entire records pertaining to the passing of the order dated 08.08.2007 made in O.A.No.945 of 2005 on the file of the Central Administrative Tribunal, Madras Bench, the 1st respondent herein and quash the same and consequently, direct the respondents 2, 3 and 4 herein to give the petitioner his due promotion to Indian Police Service with effect from 30.03.1998 and to fix his year of allotment to Indian police Service as 1993 instead of 1995 and grant all services, attendant and monetary benefits.

For Petitioner : Mr.M.Kempuraj
For Respondent -3 : Mr.K.Venkatramani
Additional Advocate General
for
Mr.A.N.Thambithurai

For Respondent 2 : ***Mr.S.Rathnasabapathy**

***For Respondents 4 to 11 : No Appearance**

ORDER

(Order of the Court was delivered by V.PARTHIBAN,J.)

The Writ Petition is filed against the order passed by the Central Administrative Tribunal, Madras Bench in O.A.No.945 of 2005 dated 08.08.2007 dismissing the Original Application filed by the petitioner herein.

2. The petitioner herein approached the learned Tribunal seeking the following reliefs:-

"To direct the respondents to give him due promotion according to the seniority by fixation of the year as 1993 instead of 1995 and consequently, give him due promotion with effect from 30.03.1998 with all his service benefits and other consequential relief."

3. The petitioner was an IPS Officer of Tamil Nadu cadre. He was promoted to IPS on 14.12.1999 and his year of allotment has been fixed by the official respondent as 1995. According to the petitioner, the cadre strength of the IPS to be appointed by promotion in the State was increased from 47 to 57 in 1997, but instead of filling the additional sanctioned post of 10 (ten) in one year, the authorities distributed the vacancy to be filled up by promotion as under:-

1997	-	1
1998	-	3
1999	-	3
2000	-	3

4. According to the petitioner, if the Competent Authority had filled up all the ten additional posts sanctioned, in 1997-1998 itself, without distribution of the posts to the subsequent years, he would have been selected in the year 1998 and he would have got the year of allotment as 1993. Therefore, the petitioner contended that the distribution of additional posts for the period of four years was violative of Articles 14 and 16 of the Constitution of India. The petitioner also contended that subsequently, in 2000, when seven additional vacancies were granted in the promotional quota due to cadre review, there was no corresponding reduction in direct recruitment quota. Those posts were filled up in one year ie., in 2001. Moreover, there was no sufficient utilisation of cadre strength at that given point of time and therefore, there was no justification for distribution of posts for the period of four years.

5. Per contra, it was contended on behalf of the official respondents that sudden increase of promotional quota in the IPS cadre led to direct decline in the direct recruitment quota. The issue was taken with the State Government to distribute the

increased number of posts for promotional quota over a period of four years in order to maintain a balance between the direct recruitment and promotee quota. As a fall out of the consultation, the Government of India issued a notification on 19.12.1998 by exercising its power under Rule 4(2)(b) of the Indian Police Service (Recruitment) Rules, 1954, distributing the additional posts over four years.

6. After taking note of the submissions of the parties, the learned Tribunal accepted the contention of the official respondents, particularly, on the aspect of exercising power under Rule 4(2)(b) of the Indian Police Service (Recruitment) Rules, 1954. For better clarity and effective appreciation, the said Rule is once again extracted below:-

"The number of persons to be recruited by each method shall be determined on each occasion by the Central Government in consultation with the State Government concerned."

Admittedly, the exercise for determining vacancies for each year was taken after consultation with the State Government, for administrative reasons. The learned Tribunal has found that the petitioner has not spelt out any legal ground in support of his claim that the total number of additional posts should not have been distributed. Without substantiating the claim, mere assertion of violation of Articles 14 and 16 of the Constitution of India, cannot be sustained, as reasoned by the learned Tribunal. The learned Tribunal also found that mere claim for promotion in 1998 by clubbing all the additional vacancies was nothing but hypothetical. The distribution of vacancies for four years was only to ensure a proper balance between two sources of recruitment, which cannot be found faulted and in fact, there was a cogent and proper explanation from the competent authority as to why it became necessary for distributing all additional posts. In such view of the matter, the learned Tribunal dismissed the application as devoid of merit. As against the order passed in the Original Application, the present Writ Petition is filed.

7. The learned counsel appearing for the petitioner reiterated the submissions made before the learned Tribunal. He made a very feeble attempt to impress upon us that the rejection of the petitioner's claim was in violation of Articles 14 and 16 of the Constitution of India and notwithstanding Rule 4(2)(b) of the Indian Police Service (Recruitment) Rules, 1954, the Competent Authority ought to have distribute all the additional vacancies together for the purpose of promotion to IPS cadre in 1998. We do not appreciate the argument put forth by the learned counsel appearing for the petitioner as to what basis, such an argument could be accepted and relief granted. In any

event, as found by the learned Tribunal, the entire litigation seems to be arising out of mere speculation, without any legal or factual basis. Such an argument, by no stretch of legal standard, can be countenanced both in law and on facts.

8. In these circumstances, We find that the decision taken by the learned Tribunal is a well considered one and the same does not call for any interference from our hands. Therefore, the present Writ Petition fails and stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

mra

To

- 1 THE REGISTRAR,
THE CENTRAL ADMINISTRATIVE TRIBUNAL
MADRAS BENCH ,
HIGH COURT BUILDINGS, CHENNAI 104.
- 2 THE SECRETARY TO GOVERNMENT
UNION OF INDIA
MINISTRY OF HOME AFFAIRS, NEW DELHI.
- 3 THE SECRETARY TO GOVERNMENT
GOVERNMENT OF TAMILNADU
HOME (POL.IA) DEPARTMENT
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- 4 THE CHAIRMAN,
THE UNION PUBLIC SERVICE COMMISSION
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THEN DEPUTY COMMISSIONER OF POLICE
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PRESENTLY, SUPERINTENDENT OF POLICE
CENTRAL BUREAU OF INVESTIGATION
ACB, CHANDIGARH, PUNJAB.

To be substituted

to the Order already

despatched on 23.3.17

- 6 G.VENKATARAMAN, IPS.
SUPERINTENDENT OF POLICE
CENTRAL BUREAU OF INVESTIGATION
ACB, SHASTRI BHAVAN, CHENNAI - 6.
- 7 VINITH DEV WANKHEDE, IPS.
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SVP NATIONAL POLICE ACADEMY
HYDERABAD.

+1cc to Mr.M. Kampraj, Advocate, S.R.No.9163
+1cc to Mr.S. Rathnasabapathy, Advocate, S.R.No.9859
+1cc to the Government Pleader, S.R.No.9422

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SAI (CO)
EU 10.03.17

CA(03.04.2017)