

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.10.2017

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THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.27345 of 2017

T.D.Paul Premkumar

.. Petitioner

-vs-

1. The Director General of Police
Law & Order
Chennai 600 004

2. The Additional Director General of Police
Armed Police
Chennai 600 010

3. The Commandant
Tamil Nadu Special Police XV Battalion-Head Quarters
Avadi
Chennai 600 054

.. Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the second respondent herein in his proceedings R.C.No.Estt.II (1)/7467/2015 dated 10.10.2017 and quash the same in so far as the petitioner is concerned and consequently direct the respondents herein to grant conversion to the petitioner from Band Constable to general line of Constabulary, in the light of the judgment of this Hon'ble Court in W.P.No.33158 of 2006 dated 25.09.2007, within a time frame as deem fit and proper by this Hon'ble Court.

For Petitioner :: Mr.G.Bala for M/s Bala and Daisy

For Respondents :: Mr.V.Jayaprakash Narayanan
Special Government Pleader

ORDER

The writ petition is directed against the impugned order passed by the second respondent dated 10.10.2017, in and by which the request of the petitioner for conversion from Band

Police Constable to general line Grade II Police Constable was rejected, citing various reasons.

2. Challenging the same, the learned counsel for the petitioner submitted that for the post of Grade II Police Constable in general line, the requisite qualification one should possess is that he should be 170 cms., in height with 5 cms., expansion of his chest viz., 81 to 86, etc. Although the petitioner is having all the requisite qualifications, his request for conversion from Band Police Constable to general line Grade II Police Constable has been wrongly rejected. Adding further, it is contended that the petitioner has got a legitimate claim for his conversion, but the said claim has been wrongly rejected, ignoring the fact that the petitioner is working for 7 years as a Band Police Constable. A similar request made by one R.Lokeshkumar was rejected on the ground that he was only 163 cms., in height, whereas the requisite height is 168 cms. But, in the present case, the petitioner is fulfilling all the requisite qualifications, namely, educational, physical efficiency measurements that are applicable for regular Grade II Police Constable. Therefore, the impugned order, so far as the petitioner is concerned, is liable to be quashed. Adding further, he has stated that the petitioner is also having the height of 170 cms., and his chest expansion is also more than the requirement. In view thereof, the rejection order is liable to go. Again, taking support from an order passed by this Court in W.P.No.33158 of 2006 dated 25.9.2007, he submitted that this Court has held clearly that there is no distinction made between Buglar Constable and Grade II Police Constable and that Rule 2, Class-I, Category (7) of the Special Rules for the Tamil Nadu Police Subordinate Service, 1953 is still in force and no amendment is made, all the posts are interchangeable and there is no salary difference. Moreover, when all the posts are in one cadre, Grade II Police Constable, no distinction can be made merely because the petitioner therein was posted as Constable Buglar originally.

3. But the said order cannot be made applicable to the present case. The reason is that while the order of reversion was passed, O.A.No.114 of 1998 was filed before the Tamil Nadu Administrative Tribunal. Subsequently, the said O.A., was transferred and renumbered as W.P.No.33158 of 2006 (T). This Court, by order dated 25.9.2007, considering the order of reversion impugned therein being passed without notice, interfered with the said order on the ground of violation of the principles of natural justice. In the present case, there is no reversion order passed. Secondly, the request of the petitioner for conversion from Band Police Constable to general line Grade II Police Constable has been rejected. The reason given in the impugned order shows that the qualification and guidelines for

recruitment of Band Police Constables are vastly different from that of the recruitment process followed for Grade II Police Constables, which is more rigorous. Secondly, if the petitioner's claim is conceded, then the seniority, promotion aspects of those Grade II Police Constables who have been appointed directly as Grade II Police Constables in TSPs and Armed Reserves would be adversely affected. Thirdly, it was also mentioned that though the Band Police Constables and the Grade II Police Constables in general line belong to the same category, they are of different classes under the Service Rules and the mode of recruitment, process of training and nature of duties done by them are vastly different. In these circumstances, when the Government have issued G.O.Ms.No.877, Home (Pol.IX) Department dated 5.10.2005 framing specific guidelines and qualifications for the recruitment of Band Police Constables, none of the Band Police Constables have been transferred to Grade II Police Constables in general line. Therefore, this Court is not able to find any infirmity with the impugned order. Accordingly, the writ petition is dismissed. No costs.

Sd/-

Assistant Registrar(J)

// True Copy //

Sub Assistant Registrar

To

1. The Director General of Police
Law & Order Chennai 600 004
2. The Additional Director General of Police
Armed Police
Chennai 600 010
3. The Commandant
Tamil Nadu Special Police XV Battalion-Head Quarters
Avadi Chennai 600 054

1CC TO GOVT PLEADER Sr.No. 75701

1CC TO M/S G. BALA AND DAISY Sr.No. 75943

DM 20/11/2017

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