

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.12.2018

CORAM

THE HON'BLE MR. JUSTICE M.M.SUNDRESH
and
THE HON'BLE MR. JUSTICE KRISHNAN RAMASAMY

W.A.Nos.730 & 731 of 2013
& M.P.Nos.1, 1 & 2 2013

- 1.The Director General of Police,
Tamil Nadu, Chennai-4.
- 2.The Deputy Inspector General of Police,
Tiruchirappalli Range, Tiruchirappalli.
- 3.The Superintendent of Police,
District Police Office,
Tiruchirappalli District. ... Appellants in
both appeals

Vs.

- T.Jagadeesan ... Respondent in
W.A.No.730/2013
- T.Kulandaivelu ... Respondent in
W.A.No.731/2013

Prayer: Writ Appeals are preferred under Clause 15 of the Letters Patent against the common order dated 06.01.2011 passed in W.P.Nos.14300 and 14301 of 2007(T).

Prayer in W.P.Nos.14300 & 14301 of 2007 (T):-

Writ petitions are filed against the order made in Original Application Nos.691 & 692 of 2003 on the file of the Tamil Nadu Administrative Tribunal praying to a direction directing the respondents to constitute a Special Range promotion Board for the petitioner and if he is qualified promote the petitioner as Sub Inspector of Police with all consequential service benefits.

For Appellant : Mrs.A.Srijayanthi,
Special Government Pleader

For respondents : M/s G.Bala and Daisy

COMMON JUDGMENT

(Judgment of the Court was made by M.M.SUNDRESH,J.)

Both these appeals are preferred against the order of the learned single Judge, who allowed the writ petition partly, directing the respondents to consider the claims of the respondents for promotion to the post of Sub-Inspector of Police in terms of sub-rule (iii) of Rule 3(d) of Special Rules for Tamil Nadu Police Subordinate Service, 1953, with the further direction to take into consideration paragraph 16 of the proceedings of the first respondent dated 04.12.2002.

2. There is no difficulty on the interpretation of law by the learned single Judge. However, we find that there is a fundamental error committed by oversight by directing the respondents to consider for the vacancies ensuing in the year 2001. Admittedly, the private respondents have not complied with sub-rule (iii) of Rule 3(d) of Special Rules for Tamil Nadu Police Subordinate Service, 1953, at the relevant point of time. Therefore, when the private respondents have not completed the four years in the post of Head Constable on the date of commencement of training, they cannot be considered for promotion to the post of Sub-Inspector of Police since they do not have the qualification and therefore, rightly they were not included in the list of candidates fit for promotion as the Sub-Inspector of Police. The crucial date was 01.07.2001. The private respondents were not qualified on that date. There is no dispute on the admitted factual position. In such view of the matter, we are of the view that the order of the learned single Judge requires interference. Accordingly, the order passed by the learned single Judge is set aside and the writ appeals stand allowed. No costs. Consequently, connected miscellaneous petitions are closed.

3. Law is quite settled, for the delayed recruitment, no right would be created for some one, who was not even qualified to be considered for promotion to the post of Sub Inspector of Police, which was to be filled for the year 2001. However, the order passed by us will not stand in the way of the private respondents for being considered for promotion in tune with the interpretation given by the learned single Judge to sub-rule (iii) of Rule 3(d) of Special Rules for Tamil Nadu Police Subordinate Service, 1953.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

raa

To

1.The Director General of Police,
Tamil Nadu, Chennai-4.

2.The Deputy Inspector General of Police,
Tiruchirappalli Range, Tiruchirappalli.

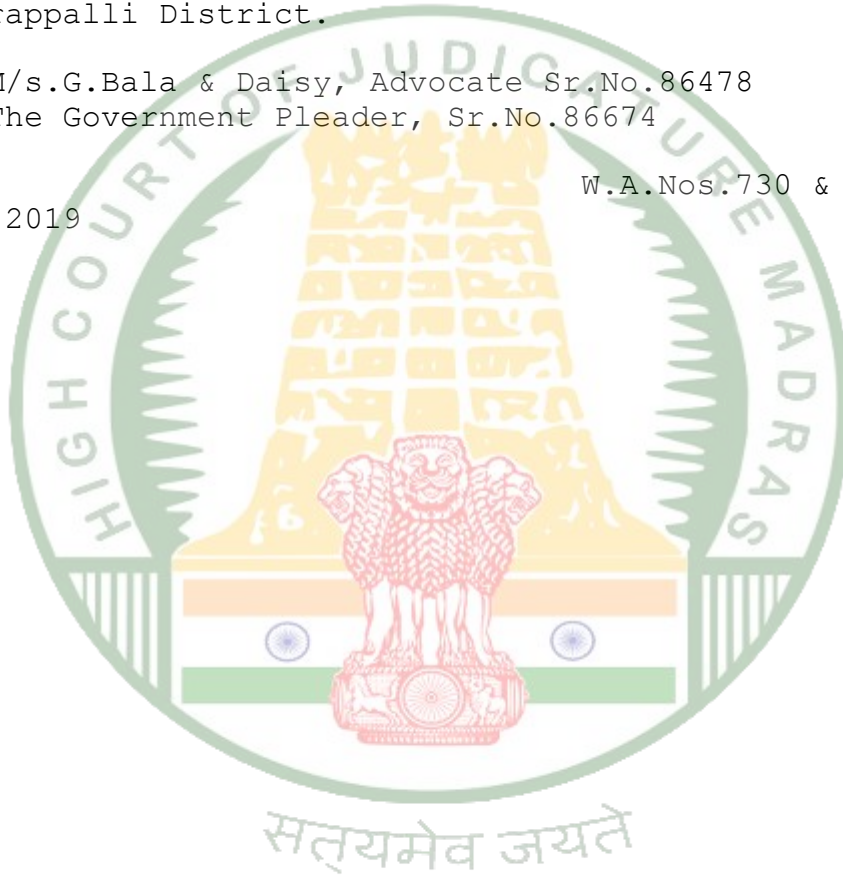
3.The Superintendent of Police,
District Police Office,
Tiruchirappalli District.

+1 cc to M/s.G.Bala & Daisy, Advocate Sr.No.86478

+1 cc to The Government Pleader, Sr.No.86674

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CSL/31.01.2019



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