

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED :05.04.2018

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM
W.P.No.29658 of 2017

and

WMP Nos.31956,31957 of 2017

and

WMP No.9663 of 2018

1.K.Bindhu
Inspector of Police (on Deputation),
Anti Corruption Branch,
Central Bureau Investigation,
Shastri Bhavan,
Chennai-600 006.

2.V.Sherlin,
Sub-Inspector of Police,
CCIW/CID, Thiruvallur.

3.V.Streedevi,
Sub-Inspector of Police (L & O),
N-1, Royapuram Police Station,
Chennai City Police,
Chennai - 600 013.

4.S.Saalini,
Sub-Inspector of Police,
Police Recruit School,
Avadi at Ashok Nagar,
Chennai-600 083.

5.K.S.Jayachitra,
Sub-Inspector of Police,
Sulagiri Police Station (CCTNS),
Krishnagiri

6.R.P.Sreekala,
Sub-Inspector of Police,
CBCID, Nagercoil.

7.C.Thanammal,
Sub-Inspector of Police,
W-16, Puliyanthope AWPS,
Chennai City.

8.K.S.Nagalakshmi,
Sub-Inspector of Police,
Police Recruit School,
Avadi at Ashok Nagar,
Chennai-600 083.

9.R.Prema,
Sub-Inspector of Police,
Crime Record Bureau,
Office of Commissioner of Police,
Vepery, Chennai-600 007.

..Petitioners

.Vs.

- 1.Government of Tamil Nadu,
Rep.by its Secretary to Government,
Home (Police HI) Department,
Fort St.George, Chennai-600 009.
- 2.The Director General of Police,
Police Head Quarters,
Kamarajar Salai,
Chennai-600 005.
- 3.The Additional Director General
of Police(Admin),
Dr.Radhakrishnan Salai,
Mylapore, Chennai-600 004.
- 4.The Chairman,
Tamil Nadu Uniformed Services
Recruitment Board,
Old COP Office campus, Pantheon Road,
Egmore, Chennai-600 008.
- 5.C.Jansi Rani,
Cadet No.343,
Sub Inspector of Police,
Crime Records Bureau,
Chennai 600 007.
- 6.T.Magudeswari,
Cadet No.148
Sub Inspector of Police,
Central Crime Branch,
Office of the Commissioner of Police,
Chennai 600 008.

7.M.Josephine Lourdu Mary,
Cadet No.359,
Sub Inspector of Police,
Central Crime Branch,
Office of the Commissioner of Police,
Chennai 600 008.

8.V.Mary Rani,
Cadet No.237,
Sub Inspector of Police,
No.C3, Inspector of Police Quarters,
K4, Anna Nagar, Chennai-600 040.

9.S.Latha,
Cadet No.118, Sub Inspector of Police,
No.1/106F, Agamathiyar Street,
Andipalayam Post,
Thiruvarur District.

10.S.Prabha,
Cadet No.191,
Sub Inspector of Police,
No.D1, 24,
Sub Inspector Quarters,
Kilpauk, Chennai.

11.Bharathi,
Cadet No.98,
Sub Inspector of Police,
No.31/40, Rajaji Nagar,
4th Street, Villivakkam,
Chennai 600 044.

12.R.Arunadevi,
Vadet No.210,
Sub Inspector of Police,
No.36, Venkateswara Nagar,
3rd Street, Sembium North,
Chennai 600 011.

13.V.Suguna,
Cadet No.44,
Sub Inspector of Police,
No.4, N.Block,
Otteri Police Quarters,patalam,
Chennai-600 012.

- 14.S.Amutha,
Cadet No.134,
Sub Inspector of Police,
No.3/98,Dharmapuram,
4th Street, T.Nagar,
Chennai 600 017.
- 15.P.Shanthidevi,
Cadet No.148,
Sub Inspector of Police,
No.12, P Block,
Sub Inspector Quarters,
P.H.Road, Chennai.
- 16.A.Yamuna,
Cadet No.68,
Sub Inspector of Police,
K.K.Nagar, Periyar,
Madurai District.
- 17.K.Bharathi,
Cadet No.180, Sub Inspector of Police,
Plot No.1, Sivakami Aachi Nagar,
Malaiyeedu, Pudhukottai District.
- 18.Tmt.Lavanya,
Cadet No.370, Sub Inspector of Police,
18th Ward, Gurunathan Chettiar Street,
Usilampatti, Madurai District.
- 19.P.Vanitha Devi,
Cadet No.186, Sub Inspector of Police,
S/o.M.Pancha,No.11A Block,
Otteri Police Quarters, Perambur,
Baracces Road, Chennai.

.. Respondents

(Respondents 5 to 19 amended in
WMP No.6156 of 2018 by SPZJ on 13.03.2018)

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents not to discriminate them as wait listed candidates or on the basis of the date on which they were sent for training and consequently to treat them on par with the candidates who underwent training during the year 2004 for the purpose of drawing seniority list in respect of Sub-Inspectors of Police (Taluk) recruited for the year 2001-2002 on the basis of marks secured by them in the training in accordance with Rule 25(a) of The Special Rules for Tamil Nadu Police Subordinate Service.

For Petitioners: Mr.K.Sampath Kumar

For Respondents: Mr.V.Kadhirvelu

Special Government Pleader for R1 to R4

: Mr.P.Ganesan for R 5 to R19

O R D E R

The relief sought for in this writ petition is for a direction to the respondents not to discriminate them as wait listed candidates or on the basis of the date on which they were sent for training and consequently to treat them on par with the candidates who under went training during the year 2004 for the purpose of drawing seniority list in respect of Sub-Inspectors of Police (Taluk) recruited for the year 2001-2002 on the basis of marks secured by them in the training in accordance with Rule 25(a) of the Special Rules for Tamil Nadu Police Subordinate Service.

2.The grievance of the writ petitioners is that their seniority has not been promptly taken into account, based on the marks scored by them in training in accordance with Rule 25(a) of the Special Rules for Tamil Nadu Police Subordinate Service. It is contended by the learned counsel for the writ petitioners that the respondents cannot discriminate the writ petitioners by not granting the benefit of training marks.

3.The learned counsel appearing for the respondents states that the Additional Director General of Police [Administration] issued a proceedings in RC No.16350/RC 1/2015 dated 22.06.2017 publishing the seniority list. Nearly 927 candidates were included in the seniority list. However, none of these persons were impleaded as party respondents in this writ petition. The learned counsel for the respondents further states that in the event of seeking modification or alteration of seniority list, all the persons affected to be impleaded in the writ petition enabling them to defend their case. However, in the present writ petition none of those candidates included in the list of seniority dated 22.06.2017 has been impleaded as party respondents. Thus, the writ petition itself is not maintainable and is to be rejected on the ground of non joinder of necessary parties.

4.The learned Special Government Pleader appearing on behalf of the respondents 1 to 3 states that the list of seniority dated 27.06.2017 was published and further the respondents have called for the objections from all the Officers, and therefore, they had followed the Rules and procedures at the time of

publication of the seniority list. If at all, the petitioners are aggrieved in respect of their seniority, they are at liberty to submit their objections/applications to the Competent Authorities for consideration in accordance with the Rules. The learned Special Government Pleader further states that the preparation of panel for grant of promotions would be done in accordance with the Rules in force and all the eligible persons will be considered.

5.The relief sought for is not to discriminate the writ petitioners from other candidates in the matter of seniority and promotion. Such a prayer sought for is general in nature and non specific. It is not stated clearly in the writ petition, whether a seniority list has been published or not. Further, it is stated that the seniority list published is a draft seniority list and not the final seniority list.

6.The learned counsel for the petitioners states that there is no seniority list at all. If such an argument is advanced, this Court is of an opinion that if there is no seniority list, then there cannot be any cause of action to move the writ petition at all. In the absence of any seniority list, the writ petitioners cannot seek any alteration or modification of seniority list at all. The cause of action would arise only in the event of publication of seniority list. More so, even after such publication, there is a provision for appeal under the Rules. Such an appeal is to be filed or objections are to be submitted within a period of three years from the date of publication of the seniority list. Therefore, even considering the arguments of the learned counsel for the writ petitioner that no seniority list was published then also there is no cause of action for entertaining the writ petition. The learned counsel for the petitioners states that as there is no seniority list, the petitioners cannot be discriminated in the event of publishing a seniority list, if at all published. In respect of this argument, this Court is of an opinion that it is a mere apprehension on the part of the writ petitioner. No writ petition can be entertained on apprehensions. Such apprehension of the writ petitioners cannot be entertained in writ petition under Article 226 of Constitution of India, and therefore, the present writ petition is premature and devoid of merits.

7.Considering the arguments so advanced by the learned counsel for the writ petitioners and the impleaded contesting respondent, this Court is of an opinion that whenever the process of preparation of seniority list is undertaken, the Competent Authorities are bound to follow the rules in force scrupulously. Though, the grievance of the writ petitioners are pre mature in nature, they are in apprehension that their case will not be considered in accordance with law. Though, this Court is not inclined to entertain such apprehensions in the

mind of the employees, it is necessary to the Competent Authorities as to implement the Rules scrupulously at the time of undertaking the process of preparation, publication of seniority and also while preparing the panel for promotion. It is needless to state that the Rules in this regard are to be followed scrupulously. All the qualified persons are to be considered at the time of considering the names of eligible candidates for inclusion of their names in the panel for promotion.

8.Promotion can never be claimed as a right. However, consideration for promotion is a fundamental right. Thus, every eligible candidate in the order of seniority is entitled to be considered in the panel. However, the merits and other qualifications are to be considered only with reference to the Rules in force. Thus, the official respondents are bound by the Rules relating to the preparation and publishing of seniority and preparation of panel for grant of promotions.

9.While considering the grounds raised in this writ petition and also the arguments advanced, this Court is of an opinion that the writ petitioners have not made out any cause of action for the purpose of granting the relief as sought for. The writ petition is filed based on an apprehension that the merits of the writ petitioners will not be considered by the Competent Authorities. In these circumstances, this Court is not inclined to entertain the writ petition in respect of the relief as such sought for in this writ petition. However, it is made clear that the respondents ought to publish the seniority list or the revised seniority list, and thereafter prepare Panel and grant promotion by strictly adhering to the Rules in force. It is further clarified that the Competent Authorities have to consider the names of all the qualified and eligible persons for promotion including the petitioners.

10.With these observations, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, the connected miscellaneous petitions are closed.

//True Copy//
Sd/-
Deputy Registrar (CS)
Sub Assistant Registrar

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To

1. Government of Tamil Nadu,
Rep. by its Secretary to Government,
Home (Police HI) Department,
Fort St. George, Chennai-600 009.

2. The Director General of Police,
Police Head Quarters,
Kamarajar Salai,
Chennai-600 005.

3. The Additional Director General
of Police (Admin),
Dr. Radhakrishnan Salai,
Mylapore, Chennai-600 004.

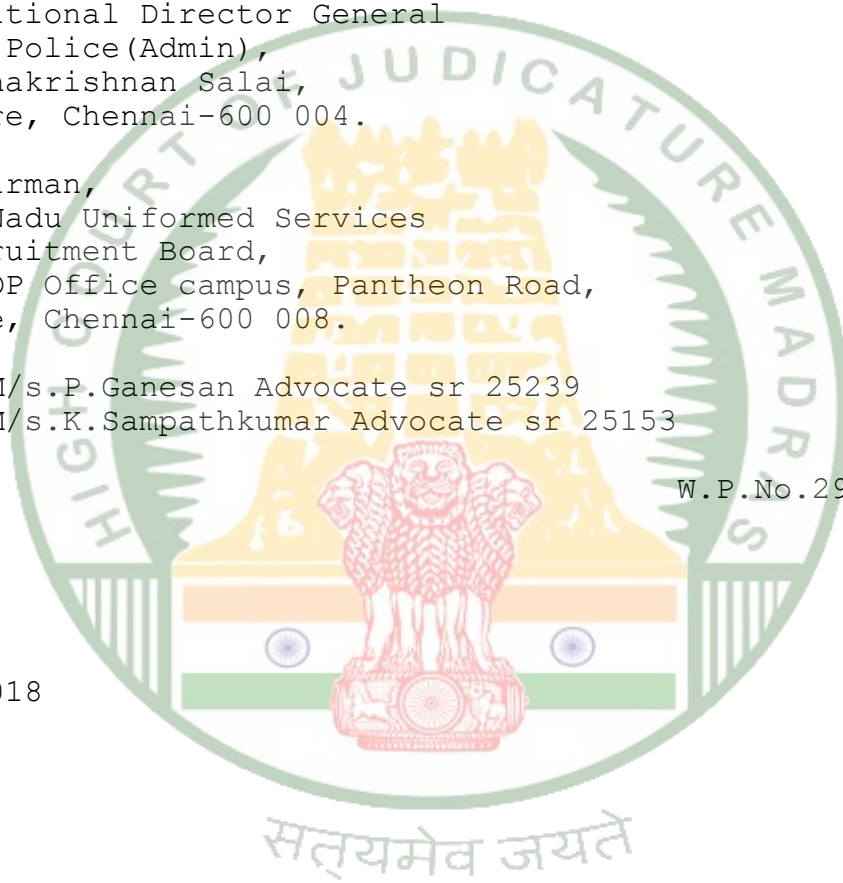
4. The Chairman,
Tamil Nadu Uniformed Services
Recruitment Board,
Old COP Office campus, Pantheon Road,
Egmore, Chennai-600 008.

+1 cc to M/s. P. Ganesan Advocate sr 25239

+1 cc to M/s. K. Sampathkumar Advocate sr 25153

W.P.No.29658 of 2017

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