



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 20.03.2018

PRONOUNCED ON : 04.06.2018

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CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) No.2252 of 2018

and

W.M.P. (MD) Nos.2464 to 2466 of 2018

E.Subbu Muthuramalingam

... Petitioner

-Vs-

1. The Director General of Police,
Government of Tamil Nadu,
Chennai-600 009.
2. The Joint Director,
Central Bureau of Investigation,
Shasthri Bhavan, Adayar,
Chennai-600 020.
3. The Superintendent of Police,
Thoothukudi District,
Korampallam, Thoothukudi.
4. The Assistant Superintendent of Police,
Thoothukudi Town, Bryant Nagar,
Thoothukudi.
5. P.Muthu

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Quo-Warranto against the 5th respondent requiring him to show his authority to hold the office of the Sub Inspector of Police inspite of his physical disability to hold the office and posted to serve as a Sub Inspector of Police to Superintendent of Police, Tuticorin District.

For Petitioner	: Mr.L.Shaji Chellen
For R1 to R4	: Mr.M.Jeyakumar, Additional Government Pleader.
For R5	: Mr.R.Vijayakumar

**ORDER**

The petitioner is a practising Lawyer. He is an active participant in the Court of Thoothukudi District Court Bar Association. According to him, the fifth respondent is not eligible to hold the post of Sub Inspector of Police. He complains of statutory violations. The petitioner has been impelled to file this Writ Petition because he suspects that there is a unholy nexus between the fifth respondent and some black sheep in Thoothukudi Bar Association. The petitioner would contend that the fifth respondent is working as a Sub Inspector of Police in the office of Superintendent of Police, Thoothukudi District from the year 2008 onwards. The main contention is that the fifth respondent has suffered amputation in one of his legs and that he does not satisfy the physical fitness requirement as stipulated in the Tamil Nadu Police Subordinate Service Rules. The petitioner has also referred to various police Standing Orders which emphasises physical fitness. The petitioner would also allege that false certificates were obtained to make it appear as if the fifth respondent is physically fit.

2.This Court called upon the official respondents as well as the fifth respondent to file their responses. Accordingly, counter affidavits have been filed.

3.Heard the learned counsel on either side.

4.At the very outset, this Court is of the view that the very institution of this writ proceedings could have been avoided if the fifth respondent had not been retained as Sub Inspector of Police in the office of the Superintendent of Police, Thoothukudi District for a long time. If the same official stands rooted in a given post for a long time, it would certainly give rise to certain undesirable developments. The petitioner has made very strong allegations against the fifth respondent. The fifth respondent in his counter affidavit has rebutted those allegations with equal vehemence.

5.This Court must necessarily hold that the allegations made against the fifth respondent have not at all been established. In fact, the learned counsel appearing for the fifth respondent would even deny the allegation that the fifth respondent was occupying the same post for the last several years. However, this Court is prima facie of the view that the fifth respondent has been shown as posted in different places for record purpose. This Court therefore directs that the same person shall not be occupying any post that is proximate to the office of the Superintendent of Police beyond a reasonable period.

6.Having said so, this Court has to agree with the submissions of the learned counsel appearing for the fifth respondent. The fifth respondent has pointed out that he was



directly recruited to the post of Sub Inspector of Police category -II on 18.01.2008. He had undergone the basic training. He completed his probation on 17.04.2009. This Court does not find any merit in the suspicion voiced by the petitioner's counsel that probation could not have been completed within the period claimed by the fifth respondent. The fact remains that as per records the fifth respondent's probation was completed on 17.04.2009 itself and he was brought on to 'A' list with effect from 18.04.2009 by DIG, Tirunelveli Range. The fifth respondent unfortunately met with a motor accident on 29.04.2009 leading to amputation of his left leg (below knee level). The fifth respondent is fixed with artificial limb. He rejoined duty on 05.11.2009. He was converted from category-II to category-I. He is now working as Sub Inspector of Police (Special Branch).

7.This Writ Petition is an out come of suspicion. There is groupism in Thoothukudi Bar. There are strong allegations against a particular member. The petitioner is of the view that the fifth respondent is leaking information to the said offender. But there is really no basis for entertaining such a suspicion. That is why, this Writ of Quo Warranto has been filed. It is pertinent to note that the fifth respondent became a Sub Inspector of Police as early as in the year 2008 and for ten years he has been working in that capacity. He has been all along been posted only in Tuticorin. This Writ Petition has however been filed only on 01.02.2008. The Hon'ble Supreme Court of India has held that the petitioner in Writ of Quo Warranto cannot be non suited on the ground of *locus standi*. Still this aspect of the matter cannot be lost sight of.

8.That apart this Court has to take note of the legislative mandate for protecting the interests of persons who suffer injuries during employment. The Government employee who suffers physical disability has to be retained in the same post or by shifting to some other post with pay protection. Hundreds of judicial orders have been passed for enforcing this legislative mandate. Admittedly, the fifth respondent suffered amputation on account of a motor vehicle accident after he was already selected as Sub Inspector of Police. Therefore, in the very nature of things, the fifth respondent will have to be accommodated as Sub Inspector of Police. The matter requires sympathetic and sensitive approach. The Superintendent of Police, Tuticorin District has also filed his counter affidavit pointing out that the disability suffered by the fifth respondent who is able to discharge his duties very well. The Writ of Quo Warranto can be issued only if statutory violations with regard to the eligibility of the person holding the post is made out. In this case, no such statutory violation has been established. The official respondents have demonstrated before this Court that the 5th respondent was selected because he found to be qualified and only after joining service, he met with the accident in question. If that be so, there is nothing wrong on the part of the official respondents in having accommodated the fifth respondent. In fact, the official respondents have only carried out



the legislative mandate. There is no merit in this Writ Petition.

9. The Writ Petition stands dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

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Sd/-
Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

To

1. The Director General of Police,
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4. The Assistant Superintendent of Police,
Thoothukudi Town, Bryant Nagar,
Thoothukudi.

- + 1 CC TO M/s.L.SHAJI CHELLAN, ADVOCATE IN SR No. 66599
- + 1 CC TO Mr.D.SRINIVASA RAGHAVAN, ADVOCATE IN SR No. 66614
- + 1 CC TO Mr.R.VIJAYAKUMAR, ADVOCATE IN SR No. 67047

TSG

TE/SV-MMS/SAR-2 : 21/06/2018 : 4P/8C

Order made in
W.P. (MD) No.2252 of 2018
04.06.2018