

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.03.2019

CORAM

THE HONOURABLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.13577 of 2015 and
W.M.P.No.18999 of 2017

P.Packiam

...Petitioner

Vs.

1. The Secretary to Government,
Home Department,
Secretariat,
Fort St.George,
Chennai 600 009.

2. The Director General of Police,
Chennai 600 004.

3. The Commandant,
Tamil Nadu Special Police,
IX Battalion,
Manumutharu,
Tirunelveli District.

...Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order vide C.No.B2/10507/2014 B.O.No.669/2014, passed by the third respondent vide order dated 30.12.2014, fixation of pay in pursuance of the order and quash the same in so far as not counting the earlier period of service rendered by the petitioner and consequently direct the first respondent to regularise the service of the petitioner with effect from 04.04.1994 and grant all consequential benefits and attendant benefits.

For Petitioner : Mr.P.Balamurali

For Respondents : Mr.R.Govindasamy
Special Government Pleader

O R D E R

Heard the learned counsel for the petitioner and the learned Special Government Pleader appearing for the respondents.

2. The petitioner is aggrieved against the order of the third respondent dated 30.12.2014 in fixing the pay scale of the petitioner. Consequently, the petitioner seeks for a direction to the first respondent to regularise the service of the petitioner with effect from 04.04.1994.

3. It is seen that the petitioner was appointed as barber in the Tamil Nadu Special Police, IX Battalion at Delhi on 04.04.1994. His service was terminated on 18.11.1997 on the reason that his appointment was purely temporary, since he was not a candidate sponsored through employment exchange. The termination was put to challenge before the then Tamil Nadu Administrative Tribunal in O.A.No.1957 of 1998 and stay of the termination order seems to have been granted by the Tribunal.

4. Consequently, in pursuance of the abolition of the Tamil Nadu Administrative Tribunal, the original application in O.A.No.1957 of 1998, was transferred to this Court and re-numbered as W.P.No.32759 of 2006. The said writ petition was disposed of by this Court on 30.09.2009 with a direction to the Director General of Police to dispose of the petitioner's representation dated 05.12.1997, after taking note of the petitioner's continuance in service all these years.

5. Thereafter, a proposal was sent to the Government by the Director General of Police with a request to relax the rule 3(a) (Reservation of appointment) as well as rule 4(a) (relates to recruitment through employment exchange). It is seen that the Government has issued G.O.Ms.No.401, Home (Pol-XIV) Department dated 07.06.2012, relaxing the rule 3(a) and 4(a) with effect from the date of issue of the said order. Based upon the said order of the Government in G.O.Ms.No.401 dated 07.06.2012, the petitioner's pay was fixed with effect from 07.06.2012, through the impugned order. The petitioner has questioned the impugned order by contending that he should have been given the benefit of pay fixation with effect from the date of his appointment and not from the date of issuance of the Government Order. But, the challenge before this Court is not against the G.O.Ms.No.401 dated 07.06.2012 and on the other hand, it is against the consequential proceedings viz., fixation of pay dated 30.12.2014.

6. Therefore, I finds that the petitioner is not entitled to challenge the consequential proceedings without challenging the main order stipulating the date of giving effect to the benefit

as only from the date of said order dated 07.06.2012. Therefore, I finds that the prayer sought for in this writ petition cannot be granted so long as the G.O.Ms.No.401 dated 07.06.2012 has not been put to challenge.

7. Accordingly, the writ petition fails and the same is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

gsk

To

1. The Secretary to Government,
Home Department,
Secretariat,
Fort St.George,
Chennai 600 009.
2. The Director General of Police,
Chennai 600 004.
3. The Commandant,
Tamil Nadu Special Police,
IX Battalion,
Manumutharu,
Tirunelveli District.

+1 cc to Mr.P.Balamurali, Advocate, S.R.No.20707

+1 cc to the Government Pleader, S.R.No.20993

W.P.No.13577 of 2015

KJ(CO)
SSM(03/04/2019).

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