

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19/12/2019

C O R A M

THE HONOURABLE MR.JUSTICE SUBRAMONIUM PRASAD

W.P.No.14032 of 2010

T.Karunanidhi

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Petitioner

Vs

1. The Secretary to Government
Home (Police II) Department
Fort St.George, Chennai 9.

2. The Director General of Police
Mylapore, Chennai 4.

3. The Deputy Inspector General of Police
Trichy Range, Trichy.

...

Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying for the issuance of Mandamus, directing the respondents to consider and pass orders on the representation made by the petitioner dated 15.06.2010 for promotion as Sub-Inspector of Police by including his name in the C list of the year 1985 and promote him notionally as Sub-Inspector of Police within a reasonable time and grant him all consequential service monetary benefits.

For petitioner ... Mr.Alagu Goutham

For respondents ... Mr.A.Zakir Hussain, G.A

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ORDER

This writ petition is to consider and pass orders on the representation made by the petitioner dated 15.06.2010 for promotion as Sub-Inspector of Police by including his name in the 'C' list of the year 1985 and promote him notionally as Sub-Inspector of Police within a reasonable time and grant him all consequential service monetary benefits.

2. The petitioner entered in to service as Grade.I Police Constable on 17.04.1974. He was promoted as Head Constable on 28.12.1979. As per the service Rules, he has eligible to participate in the Range Promotion Board for Head Constables. During the year 1985, a range promotion board was conducted in the Trichy Range, wherein , the petitioner passed the examination and secured 50% namely 67.5 marks, but the petitioner was not promoted.

3. Even though the petitioner's name was not included in the C list of Head Constable for the year 1985. On 09.01.1989, the petitioner was promoted as temporary Sub-Inspector of Police on out of seniority basis in the direct quota. He was later reverted as Head Constable for want of vacancy in order to accommodate the directly recruited Sub-Inspectors of Police, who completed their training.

4. Some temporary promoted Sub-Inspectors who were reverted for want of vacancy to accommodate the directly recruited Sub-Inspectors filed an application before the Tamil Nadu Administrative Tribunal and got an order of stay against the reversion. The Tribunal by its order dated 22.12.1989 in O.A.No.694 of 1989, passed the following order:-

“ In View of the special circumstances in the proper perspective we direct that such of the applicants who have appeared before the Range Promotion Board, though failed to get the minimum marks, by the conduct the respondents in posting them as Sub Inspector of Police, and by their long officiation as Sub Inspector of Police become entitled to be retained as Sub Inspectors of Police and need not wait for their turn for inclusion in the ‘C’ list as stated above. They will enblock be placed below those who were regularly included in

the last 'C' list of Head Constables found fit for promotion as Sub Inspectors of Police in the respective units. Among them the seniority will be on the basis of the feeder category seniority. The applications are allowed in part as stated above”.

5. The petitioner along with other officers name was included in the C list of the year 1985 and promoted as Sub-Inspector of Police only from 07.08.1992. The petitioner retired from service on 30.06.2010. After retirement the petitioner has filed the instant writ petition.

6. On the face of the writ petition is barred by delay and laches. The petitioner has filed this writ petition after he became the Sub-Inspector of Police in the year 1992 and he has retired from services. It is the settled law that unexplained delay in approaching Court in Article 226 of the Constitution of India, acts against the petitioner. In **Vijay Kumar Kaul V. Union of India**, reported in (2012) 7 SCC 610, the Hon'ble Supreme Court held that belated approach in filing writ petition is impermissible and at paragraphs 26 and 27, it is held as follows:

"26. From the aforesaid pronouncement of law, it is manifest that a litigant who invokes the jurisdiction of a court for claiming seniority, it is obligatory on his part to come to the court at the earliest or at least within a reasonable span of time. The belated approach is impermissible as in the meantime interest of third parties gets ripened and further interference after enormous delay is likely to usher in a state of anarchy.

27. The acts done during the interregnum are to be kept in mind and should not be lightly brushed aside. It becomes an obligation to take into consideration the balance of justice or injustice in entertaining the petition or declining it on the ground of delay and laches. It is a matter of great significance that at one point of time equity that existed in favour of one melts into total insignificance and paves the path of extinction with the passage of time."

7. Another case in ***Karnataka Power Corporation Limited V. K.Thangappan and Another***, reported in (2006) 4 SCC 322, the Hon'ble Supreme Court, at paragraph 6, held as follows:

"6. Delay or laches is one of the factors which is to be borne in mind by the High Court when they exercise their discretionary powers under Article 226 of the Constitution. In an appropriate case the High Court may refuse to invoke its extraordinary powers if there is such negligence or omission on the part of the applicant to assert his right as taken in conjunction with the lapse of time and other circumstances, causes prejudice to the opposite party. Even where fundamental

right is involved the matter is still within the discretion of the Court as pointed out in Durga Prashad v. Chief Controller of Imports and Exports [(1969) 1 SCC 185 : AIR 1970 SC 769] . Of course, the discretion has to be exercised judicially and reasonably."

8. In view of the same, the writ petition is dismissed on the ground of delay and laches. No costs.

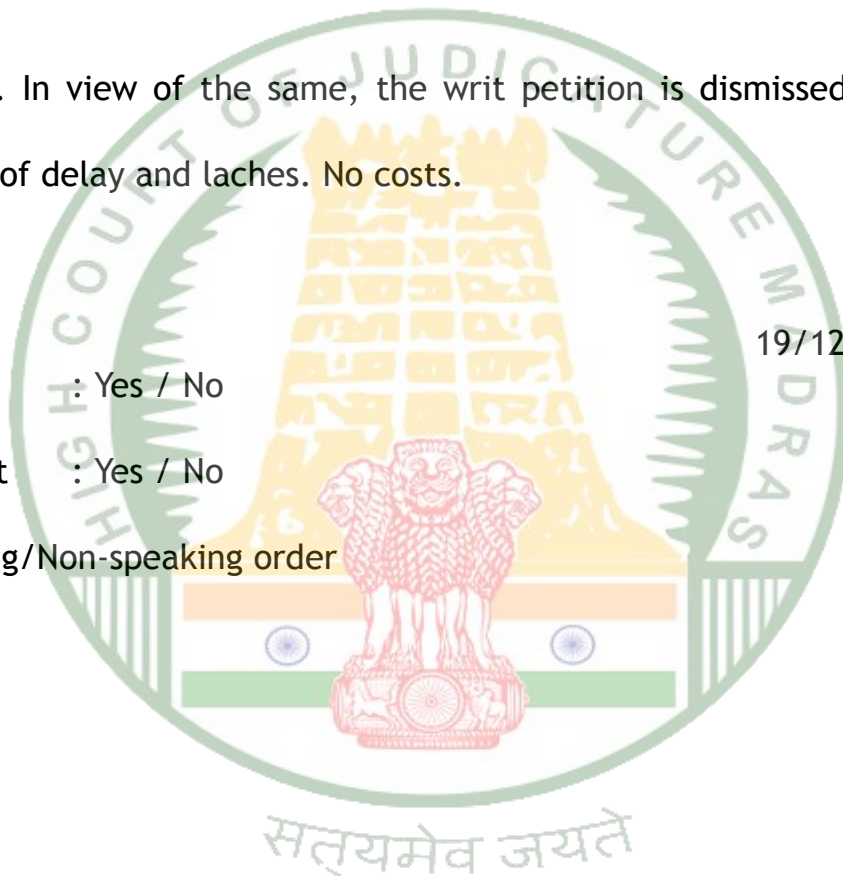
19/12/2019

Index : Yes / No

Internet : Yes / No

Speaking/Non-speaking order

Pkn.



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