

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 04.11.2019

C O R A M

THE HON'BLE MR.JUSTICE SUBRAMONIUM PRASAD

W.P.Nos.380 of 2013 and 17553 of 2017

Prayer in W.P.No.380 of 2013:

M.Jesuraj

... Petitioner

Vs.

1.The State of Tamil Nadu rep by
its Secretary to Government,
Home Department,
Fort St. George, Chennai-600009.

2.The Director General of Police,
Chennai - 600004.

3.The Additional Director General of Police,
Armed Police, Kilpauk,
Chennai - 10.

4.The Inspector General of Police,
Armed Police, Kilpauk,
Chennai - 10.

5.The Commandant,
TSP - II Battalion,
Avadi, Chennai-54.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the respondents to grant notional promotion of the petitioner in the post of Inspector with the effect from the date of promotion given to his juniors i.e. 11-08-1988 and grant him all consequential promotion with all attendant benefits and consequently re-fix his pension in accordance with law on the particular facts and circumstances of the case on hand.

For petitioner : Mr.S.Selvathirumurugan
For Respondents : Ms.A.Shrijayanthi
Special Government Pleader

Prayer in W.P.No.17553 of 2017:

M.Jesuraj

... Petitioner

Vs.

1.The State of Tamil Nadu rep by
its Secretary to Government,
Home Department,
Fort St. George, Chennai-600 009.

2.The Director General of Police,
Tamil Nadu Police Department,
Mylapore,
Chennai - 600 004.

3.The Additional Director General of Police,
Armed Police, Kilpauk,
Chennai - 10.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the proceedings of the 2nd respondent in Rc.No.37962/GB III(2)/2016 dated 12.04.2017 and quash the same as illegal, incompetent and ultra vires and to direct the respondents to promote the petitioner to the post of Deputy Commandant with effect from the date of promotion given to his juniors namely Durairaj and promote him to the above post with all monetary and service benefits including pensionary benefits.

For petitioner : Mr.R.Jayaprakash

For Respondents : Ms.A.Shrijayanthi
Special Government Pleader

COMMON ORDER

Instant writ petitions are filed for the following prayers:-

(i) To direct the respondents to grant notional promotion of the petitioner in the post of Inspector with the effect from the date of promotion given to his juniors i.e. 11-08-1988 and grant him all consequential promotion with all attendant benefits and consequently re-fix

his pension in accordance with law on the particular facts and circumstances of the case on hand.

(ii) To call for the records pertaining to the proceedings of the 2nd respondent in Rc.No.37962/GB III(2)/2016 dated 12.04.2017 and to quash the same as illegal, incompetent and ultravires and to direct the respondents, to promote the petitioner to the post of Deputy Commandant with effect from the date of promotion given to his juniors namely Durairaj and promote him to the above post with all monetary and service benefits including pensionary benefits.

2. The grievance of the petitioner is that he has been denied of his rightful promotions and persons who were appointed later than him namely G.Munusamy, had been promoted. The petitioner was appointed as a Grade - II Police Constable General. He was promoted to the post of Lance Naik (R/T) in the year 1982 and further promoted as Naik (R/T) in the year 1984. This is the second round of litigation. The petitioner already approached this Court by filing W.P.No.31293 of 2006, claiming identical relief.

3. This Court by an order dated 07.07.2009, dismissed the writ petition. Appeals to the Hon'ble Division Bench of this Court and further petition to the Hon'ble Supreme Court, were failed. The petitioner in the present writ petition seeks to re-open the entire case by stating that fraud has been committed by the respondents, in as much as the entire case in the earlier round proceed on the basis that the petitioner and Mr.G.Munusamy, have been appointed in different streams and therefore the said G.Munusamy was entitled to be promoted depending upon the seniority in the streams.

4. According to the petitioner, every Grade-II Police Constable is appointed in general line and subsequently deployed in other streams, which is a fortuitous circumstance. It is therefore the claim of the petitioner that Mr.G.Munusamy was placed in a particular branch in which the promotions were faster and this cannot be taken as a ground to promote ahead of the petitioner.

5. The case of the petitioner cannot be accepted. The very same relief was claimed in the earlier round of litigation and the same has been rejected. The petitioner cannot be permitted to re-agitate the same issue once again. Further, the petitioner had already attained the age

of superannuation, in the year 2011 and the instant writ petitions have been filed after his superannuation.

6. Writ petitions are dismissed on the principles of res judicata and doctrine of laches. No Costs.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

1. Secretary to Government,
State of Tamil Nadu rep by
Home Department,
Fort St. George, Chennai-600009.
2. The Director General of Police,
Tamil Nadu Police Department,
Mylapore,
Chennai- 600 004.
3. The Additional Director General of Police,
Armed Police, Kilpauk,
Chennai - 10.
4. The Inspector General of Police,
Armed Police, Kilpauk,
Chennai - 10.
5. The Commandant,
TSP - II Battalion,
Avadi, Chennai-54.

+1cc to Mr.S.Selvathirumurugan , Advocate SR.No.91842
+1 cc to Government Pleader Sr.No.91789

W.P.Nos.380 of 2013 and 17553 of 2017

A.SK(12/12/2019)

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