

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 27.08.2019

Delivered on : 17.09.2019

Coram

The Hon'ble Mr.Justice V.PARTHIBAN

W.P.Nos.3994 & 28625 of 2018

&

W.M.P.Nos.4908, 4909, 33410 & 33412 of 2018

Raja Rajan

...Petitioner in both WPs

vs.

1.The Principal Secretary to Government,
Home (Police II) Department,
Fort St.George, Chennai - 09.

2.The Director General of Police,
Dr.Radhakrishnan Salai,
Mylapore, Chennai - 04.

3.The Secretary,
Tamil Nadu Public Service Commission,
Chennai.

...Respondents in W.P.No.3994 of 2018

1.The Additional Chief Secretary to Government,
Home (Police 1-A) Department,
Fort St.George, Chennai - 09.

2.The Director General of Police,
Dr.Radhakrishnan Salai,
Mylapore, Chennai - 04.

...Respondents in W.P.No.28625 of 2018

Prayer in W.P.No.3994 of 2018: Petition filed under Article 226 of the Constitution of India praying to issue a writ of Certiorarified mandamus calling for the records of the first respondent in connection with the impugned order passed by him in G.O.(D) No.488 Home(Pol.II) Dept dated 31.05.2016, and quash the same and direct the respondents to grant consequential seniority to the petitioner in pursuance of G.O.Ms.No.1252 (Pol.VIII) Department dated 29.10.2004 based on the gallantry

award granted by His Excellency the President of India for the courageous act of the petitioner within a reasonable time.

Prayer in W.P.No.28625 of 2019: Petition filed under Article 226 of the Constitution of India praying to issue a writ of Certiorarified mandamus calling for the records of the second respondent in connection with the impugned order passed by him in R.C.No.150291/GB-1(2)/2018 dated 17.10.2018 and the impugned panel prepared by the first respondent in G.O.Ms.No.1007 Home (Police 1A) Department dated 20.08.2018 and quash the same and further direct the respondents to consider the claim of the petitioner for promotion to the post of Superintendent of Police-Category-I (Non-cadre) for the year 2018-19 and promote him as such and grant him all consequential service and monetary benefits.

For Petitioners ... Mr.K.Venkataramani, SC
for Mr.M.Muthappan
(in both WPs)

For Respondents ... Mr.J.Pothiraj, Spl.G.P.
(for R.1 & R.2)
Mr.M.Loganathan, Standing Counsel
(for R.3)
(in both the WPs)

COMMON ORDER

Both the writ petitions are filed by the same Officer and the facts and issues are interlinked and common and therefore they were taken together for common disposal as under.

2. The facts in W.P.No.3994 of 2018 are stated in a nutshell as hereunder in order to understand the basis of the claim of the petitioner herein.

3.The petitioner was originally appointed as Sub-Inspector of Police on 28.09.1987. He was promoted as Inspector of Police in 2001. The petitioner while working as Sub-Inspector of Police and then as Inspector of Police, was associated with the Special Task Force (in short, 'STF') which was entrusted with the task of apprehending infamous forest brigand Veerappan. Ultimately, the STF had captured the forest brigand and he was killed in the encounter. The various Police Personnel as well as other staff associated with the STF were given rewards, accelerated promotion, pieces of land, special increments, compensation etc., considering their participation and involvement in the STF.

4. As far as the petitioner herein is concerned, he was one of the very few persons who was directly involved in the encounter which resulted in killing of Veerappan. Therefore, he was given accelerated promotion as Deputy Superintendent of Police vide G.O.Ms.No.1252 Home (Police VIII) Department dated 29.10.2004. Subsequently, the petitioner was chosen for prestigious police medal for gallantry for his courageous act and was awarded the medal on 28.11.2005. Originally when the petitioner was promoted vide G.O.Ms.No.1252 dated 29.10.2004, the seniority was to be reckoned on the date of joining duty in the new post as per the said G.O. Sub-clause (e) of Clause 5 contains in the said G.O. is relevant and the same is extracted hereunder:

"(e) the names of individual who are granted accelerated promotion be placed at the bottom of the seniority list of the respective category existing on the date of their joining duty in the new post."

The grievance of the petitioner is that, despite his accelerated promotion, consequence seniority of the petitioner was not fixed in the cadre of Deputy Superintendent of Police.

5. While so, the Government issued G.O.Ms.No.1396 Home Department dated 03.10.2007, deleting Sub-clause (e) of Clause 5 of G.O.Ms.No.1252 dated 29.10.2004 granting accelerated seniority also. The operative portion of the G.O.Ms.No.1396 dated 03.10.2007 reads as under;

"3. Based on the careful and independent examination of the issue with relevant records and to ensure that the intention of the Government to recognize the members of service by accelerated promotion is not extended to accelerated seniority thus conferring benefits for the whole of the carrier and following the principles of natural justice, the Government hereby order the following.

(i) the existing para 5(e) of the G.O.Ms.No.1252, Home (Pol.VIII) Department, dated 29.10.2004 and G.O.Ms.No.1346, Home (Pol.VIII) Department dated 06.12.2004 be deleted.

(ii) For the para 5(e) occurring in the G.O.Ms.No.1252, Home (Pol.VIII) Department, dated 29.10.2004 and G.O.Ms.No.1346, Home (Pol.VIII) Department, dated 06.12.2004 the following shall be substituted.

"The seniority between the accelerated promotees and the general promotees in the promoted category shall continue to be governed by their panel position i.e., with reference to their inter-se-seniority in the lower grade. At any stage the accelerated promotion will not

give the individual accelerated consequential seniority, since the accelerated promotion is only for one stage"

(iii) The concept indicated in para 3(ii) above is also applicable to the persons who have been awarded accelerated promotion in individual orders from time to time to the extent it applies to future promotion. The above principle will apply in cases of accelerated promotion to be considered in future."

From the above, it could be seen that the accelerated seniority earlier granted when the promotion order was issued to the petitioner as Deputy Superintendent of Police, came to be withdrawn.

6. Subsequent to the issuance of G.O.Ms.No.1396 dated 03.10.2007, three Police Officers viz., K.Mohan, M.Thillai Natarajan and M.Chandrasekar who were granted accelerated promotion originally in respect of individual courageous acts, not associated with the STF, had challenged the denial of accelerated seniority vide G.O.Ms.No.1396 dated 03.10.2007. This Court vide individual orders dated 30.10.2009 in W.P.No.17312 of 2008, W.P.No.8886 of 2008 & W.P.No.10290 of 2009 allowed the Writ Petitions filed by those Police Officers, wherein the learned Judge of this Court clearly held that the denial of accelerated seniority as per the above said G.O. cannot be made applicable to the writ petitioners therein, since the Government has consciously made individual assessment of those writ petitioners and it was not an en masse accelerated promotion as given to STF Personnel. It appears that the Government accepted the judgment of the learned Judge and implemented the same and granted accelerated promotion for the second time to those writ petitioners.

7. In the meanwhile, the petitioner was promoted as Additional Superintendent of Police on 29.09.2013. On 08.01.2016, the petitioner made a representation to the first respondent requesting to revise seniority in the cadre of Deputy Superintendent of Police by fixing him in the appropriate placement in the panel for the year 2004-05 by taking into consideration his date of promotion as 30.10.2004 and revise his seniority both in the cadre of Deputy Superintendent of Police and Additional Superintendent of Police and promote him consequently to the post of Superintendent of Police (non-cadre). Since, there was no response forthcoming from the respondents the petitioner was constrained to approach this Court in W.P.No.3484 of 2016 and this Court disposed of the writ petition on 08.02.2016 by directing the first respondent to consider and pass orders on the representation submitted by the petitioner.

Thereafter, the first respondent issued an order on 31.05.2016 rejecting the claim of the petitioner on the ground that a number of writ petitions are pending on similar issue before this Court and before the Hon'ble Supreme Court of India and therefore his request found to be not feasible for compliance. The said order is put to challenge in the present Writ Petition.

8. Shri K.Venkatramani, learned Senior counsel appearing for the writ petitioner would submit that as far as the pending litigations before this Court and before Hon'ble Supreme Court of India, they stand on a different footing as the claim of the petitioner herein is completely different and it was fully covered by the decisions of this Court dated 30.10.2009 in the above mentioned three writ petitions, which decisions were implemented by the Government itself in respect of those three individuals viz., K.Mohan, M.Thillai Natarajan & M.Chandrasekar.

9. The learned Senior counsel would straight away draw the attention of this Court to the observations made by the learned Judge of this Court in his order dated 30.10.2009 in respect of three individual writ petitioners and would draw specific reference to the concluding paragraphs commencing from 4.2 to 7 which read as under;

"4.2. In the case of STF men who have been involved in the Veerappan's case, individual assessment of their act of bravery in eliminating the forest brigand was not made by the Government and the recommendation made by the Director General of Police and the Board which was constituted for the said purpose has not assessed the individual STF men pertaining to their part in eliminating the said Veerappan. But the case of the petitioner does not stand in the said position.

4.3. When individual assessment was made on the petitioner and the petitioner was granted accelerated promotion, the Government may not be justified in passing G.O.Ms.No.1396 dated 3.10.2007 in equating the petitioner along with the STF men referred to above. In the said G.O though it was passed in reference to the STF men referred to above, in the last para of the said G.O there is also a reference about accelerated promotion given to others. The same is extracted here under:-

"The concept indicated in para 3(i) above is also applicable to the persons, who have been awarded accelerated promotion in individual orders from time to time to the extent it applies to future promotion. The above principle will apply also to cases of accelerated promotion to be considered in future."

5. A uniform stand cannot be taken by the Government in respect of the STF men referred to above and the case of the individual like the petitioner who have been accorded accelerated promotion for their acts of bravery. Further, in G.O.Ms.No.1252 dated 29.10.2004, it was referred that one stage of promotion were given to them but in respect of the accelerated promotion given to the petitioner in G.O.Ms.No.1246 dated 20.08.2007, such reference was not made.

6. It is not denied by the Government, that the petitioner was accorded accelerated promotion taking into consideration, the guidelines framed in G.O.Ms.No.468, followed by High Level Committed constituted for such purpose.

7. Considering the above facts and circumstances, I am of the considered view that the refusal to accord promotion to the petitioner to the post of Superintendent of Police citing G.O.Ms.No.1396 Home [Pol-1A] Dept dated 3.10.2007 is wholly unjustified. Consequently, the G.O.Ms.No.1396 dated 3.10.2007, so far as denying promotion to the petitioner is liable to quashed and accordingly quashed. Consequently, I direct the respondents to consider including the name of the petitioner in the panel of promotion, fit for promotion to the post of Superintendent of Police from the year, which he is eligible but for G.O.Ms.No.1396 dated 3.10.2007. The said exercise has to be carried out by the respondents within a period of six weeks from the date of receipt of a copy of this order. The writ petition is ordered accordingly. Consequently, connected miscellaneous petitions are closed. However, no order as to costs."

10. Likewise, the learned Judge of this Court has made similar observations in other two writ petitions, in paragraph 19 and in paragraphs 7 & 8 respectively, which are also extracted hereunder:

"19.The discussion made above will amply establish that G.O.Ms.No.1396 Home (Pol.1A) Department dated 03.10.2007 amending 5e of the original Government Order in G.O.Ms.No.1252 Home (Pol.VIII) Department dated 29.10.2004 may not have any relevance to the case of the petitioner. Hence ignoring the said Government Order as far as the petitioner is concerned, the respondents are bound to promote the petitioner to the post of Deputy Superintendent of Police. Further the non-inclusion of the petitioner in the panel of Inspector of Police fit for appointment to the post of

Deputy Superintendent of Police as per the order of the first respondent in G.O.Ms.No.658 Home (Police 2) Department dated 10.06.2008 is liable to be quashed sofar as non-inclusion of the petitioner alone is concerned and consequently, I direct the respondents to consider the case of the petitioner for inclusion of his name in the said list after Sl.No.36 and above Sl.No.37 with all consequential benefits. The said exercise has to be carried out by the respondents within a period of six weeks from the date of receipt of a copy of this order."

7. When the petitioner was elevated to the post of the Inspector of Police from the post of Sub Inspector of Police, considering his act of bravery and such promotion was accorded through G.O dated 1.07.1999, relaxing the relevant rules and for the regular post without creating supernumerary posts, when his seniority was fixed on 07.03.2001 placing him in Serial No.110 A and the same was reaffirmed by the proceedings of the Director General of Police dated 25.10.2005, there is no rhyme or reason to refuse further promotion to him as DSP. His case cannot be compared with the other promotions granted to STF men who were accorded accelerated promotion for wiping out the forest brigand Veerappan, since in those cases individual acts of bravery of each and every individual who got such accelerated promotion was not considered by the Director General of Police, when he sent their names recommending such accelerated promotion and also the accelerated promotion board has not considered their individual bravery, when recommending their names to the Government for granting accelerated promotion. Further, supernumerary posts were created for granting them accelerated promotion. But, in the case on hand, as stated already petitioner's act of bravery was considered isolatedly and he had been accorded promotion relaxing Rules and also for the regular post. His seniority was also fixed as early as 07.03.2001 and re-affirmed on 25.10.2005. The files produced before me was perused by me. It reveals that the Collector had also appreciated the act of bravery of the petitioner in that incident and recommended for accelerated promotion.

8. In view of the above stated position, I am inclined to hold that the petitioner is justified in his claim that he shall be elevated to the post of Deputy Superintendent of Police, which has to be

considered within six weeks from the date of receipt of a copy of this order."

11. According to the learned Senior counsel, the ruling of the learned Judge completely distinguishes the case of the individual merit with that of en masse promotion granted to hundreds of Police Personnel associated with the Task Force. He would submit that as far as the Special Task Force is concerned, the Government itself has published Gazette Notification containing the list of 7 Officers who are directly involved in the operation "Cocoon" and the list of Officers identified by the Government, viz.;

- 1.Thiru K.Vijay Kumar, IPS - Additional Director General of Police
- 2.Thiru N.K.Senthamarai Kannan- Superintendent of Police
- 3.Thiru F.M.Hussain - Deputy Superintendent of Police
- 4.Thiru N.Rajarajan - Inspector of Police
- 5.Thiru S.Velladurai - Sub-Inspector of Police
- 6.Thiru M.Saravanana - Grade I Police
- 7.Thiru V.Kumaresan - Grade II Police

12. According to the learned Senior counsel, that Serial Nos.1 & 2 are IPS Officers, Serial No.3 gone on Superannuation in the post of Superintendent, Serial No.5 got double promotion in the year 2005 from Sub-Inspector of Police to Deputy Superintendent of Police now serving as ADSP, Serial No.6 got double promotion in the year 2005 from Grade I to Sub-Inspector of Police and Serial No.7 got double promotion in the year 2005 from Grade II to Head Constable. The petitioner alone was not given accelerated promotion along with seniority. If the accelerated seniority had been given to the petitioner when he was promoted as Deputy Superintendent of Police, he would have now been promoted as Superintendent of Police. Therefore, the denial of accelerated seniority to the petitioner on the basis of G.O.Ms.No.1396 dated 03.10.2007 is per se discriminatory, arbitrary and unconstitutional and cannot be countenanced in law or on facts.

13. As far as the litigations which are pending before this Court and before Hon'ble Supreme Court are concerned, the learned Senior counsel would submit that the issues that are pending before this Court and before the Hon'ble Supreme Court is, 'Whether accelerated seniority which the Government proposed to give to the persons associated with the Special Task Force is valid or not in the eye of law?'. The learned Senior counsel would submit that the issue pertains to all the personnel associated with STF where there was no assessment of individual

merit and whereas in this case, 7 Officers were identified for the individual merit and therefore the case of the petitioner stands on a complete different footing and his claim cannot be unnecessarily clubbed with the pending Writ Petitions before this Court or before the Hon'ble Supreme Court of India. Therefore the learned Senior counsel would submit that this Court de hors the pendency of litigations, can independently appreciate the claim of the petitioner on the basis of individual merit assessed by the Government itself in respect of the petitioner herein and also on the basis of the orders passed by this Court on 30.10.2009, which orders were implemented by the Government notwithstanding G.O.Ms.No.1396 dated 03.10.2007.

14. Per contra, the learned Special Government Pleader would stoutly oppose the claim made by the Writ Petitioner in these Writ Petitions on the ground that the issue of grant of accelerated seniority intermingled with the issues which were pending before this Court in a batch of writ petitions and were also pending before the Hon'ble Supreme Court of India. Therefore, the Government has passed an order on 31.05.2016 rejecting the claim of the petitioner as not feasible for compliance and the rejection by the Government cannot be found fault with in the circumstances of the case.

15. The learned Special Government Pleader would submit that issue of grant of accelerated seniority has a chequered history of several litigations filed for and against by Police Personnel before this Court. He would submit that, when G.O.Ms.No.1396, dated 03.10.2007 was issued, the same was subjected to challenge and this Court in its order dated 14.10.2009 had dismissed the W.P.No.35716 of 2007 and batch of cases. Against the order dated 14.10.2009, Writ Appeals were filed in W.A.Nos.849 to 854 of 2010 and obtained a stay of order in W.P.No.35716 of 2007, further the learned Division Bench of this Court vide a detailed order, had dismissed the challenge. The writ petitioner herein has also approached this Court challenging G.O.Ms.No.1396 dated 03.10.2007 in W.P.No.3484 of 2016. The said writ petition was also tagged pending Writ Appeals in W.A.Nos.849 to 854 of 2010.

16. In the meantime, the Government issued G.O.Ms.No.332, Home (Police 1A) Department, dated 03.05.2012 deleting paragraph 3 of G.O.Ms.No.1396 Home Department, dated 03.10.2007 and restored paragraph 5(e) of the earlier G.O.Ms.No.1252, Home Department dated 29.10.2004, whereby restoring the accelerated seniority of the promotees. Many Writ Petitions have been filed by the affected serving Police personnel challenging the G.O.Ms.No.332 dated 03.05.2012. The Writ Petitions were heard along with W.A.Nos.849 to 854 of 2010. Finally, the Division Bench of this Court vide common order dated 05.04.2013 quashed the G.O.Ms.No.332, dated 03.05.2012 restoring the accelerated

seniority and dismissed the Writ Petitions/Writ Appeals, seeking for restoration of accelerated seniority. In effect, the challenge to G.O.Ms.No.1396 Home Department, dated 03.10.2007 came to be rejected. As against the common order passed by the Division Bench dated 05.04.2013, a Special Leave Petition (Civil) No.13190 of 2018 was filed and the matter is pending before the Hon'ble Supreme Court of India.

17. While matters stood thus, the Government having failed to convince this Court in respect of G.O.Ms.No.332 Home Department, dated 03.05.2012, passed yet another G.O.Ms.No.550 Home (Police - 2) Department, dated 24.07.2013 by amending Rule 11 of the Special Rules for the Tamil Nadu Police Service (Section 22 in Volume-II of the Tamil Nadu Service Manual 1969) providing for accelerated seniority also in the Rule itself. Challenging the amendment to the Rule, many Writ Petitions were filed and in W.P.Nos.24461 of 2013, etc. batch, this Court while admitting the writ petitions, has granted interim stay of the said Government Order amending the Rules and thereafter the interim order was modified and the Government was permitted to fill up the vacancies and the batch of Writ Petitions are still pending finalization before this Court.

18. In the back drop of the above factual scenario, the learned Special Government Pleader would strongly oppose grant of any relief to the petitioner since the issue of accelerated seniority has been tossed up and down and going back and forth, nevertheless the same has not attained finality and hence this Court cannot pass any order in these Writ Petitions in view of the pendency of several litigations on the issue before this Court and also before the Hon'ble Supreme Court of India.

19. As regards the implementation of the order passed by the learned Single Judge dated 30.10.2009 in W.P.Nos.17312, 8886 of 2008 and W.P.No.10290 of 2009, he would submit that because of the Court's direction, the Government had no choice except to implement the same. However, he would clarify that said decisions were not rendered in the context of accelerated promotion or seniority in view of their association with the STF but because of their individual merit in discharge of their duties in a most exemplary manner. Therefore, the petitioner herein cannot draw a parallel to the claim of those writ petitioners. In any event, the substance of the claim of the petitioner is directly interlinked with the several writ petitions pending before this Court and also the Special Leave Petition before the Hon'ble Supreme Court of India and therefore, the petitioner cannot seek any order to his benefit from this Court without awaiting the outcome in the pending litigations. Finally the learned Special Government Pleader would submit that the petitioner having got his accelerated

promotion against a supernumerary post, cannot expect accelerated seniority also since such promotion was originally envisaged in G.O.Ms.No.1252 dated 29.10.2004 was one time benefit. The learned Special Government Pleader would add that in case, the petitioner's claim is allowed that will open the flood gates as this Courts will be flooded with such claims from hundreds of STF Personnel who were not given accelerated seniority and would also go against the order of the Division Bench of this Court passed in a batch of writ appeals in W.A.Nos.849 to 854 of 2010 dated 05.04.2013. On the whole, the learned Special Government Pleader would submit that no relief is to be granted to the petitioner and therefore, he would urge this Court to dismiss the Writ Petitions.

20. By way of reply, the learned Senior counsel Mr.K.Venkatramani, appearing for the petitioner would submit that even the Division Bench of this Court passed a detailed order, upholding the G.O.Ms.No.1396, dated 03.10.2007 and dismissing the claim of for accelerated seniority as observed in paragraph 64 of the judgment, which reads as under:

"64. As discussed earlier, accelerated promotion was not a regular promotion; but given with a view to encourage the Officers, who were part of Special Task Force. Accelerated promotion was given to all the persons who joined the Special Task Force irrespective of their individual role played by Special Task Force. Certainly it was not based on appraisal of individual's merit and ability and on the other hand it was conferred en masse of those persons, who joined Special Task Force. When there was no appraisal of individual's merit and ability, accelerated promotion cannot be given with the accelerated seniority so as to benefit the accelerated promotees to steal a march over all the regularly appointed officers/personnel."

21. From the above, it could be seen that the accelerated promotion was given mechanically without assessment of the individual merit and participation and therefore, the learned Division Bench has given a leeway to the Government to carve out an exception and grant further benefit of seniority on the basis individual merit. Therefore, the order passed by the Division Bench of this Court dated 05.04.2013 in W.A.Nos.849 to 854 of 2010 is not opposed to the claim made by the petitioner herein and if the claim is granted by this Court, the same is not in violation of the order passed by the learned single Judge of this Court.

22. Considered the detailed submissions made by the learned Senior counsel and also the learned Special Government Pleader appearing on behalf of the parties. The Court also perused the materials and the various decisions rendered by this Court in order to appreciate the basis of the claim of the petitioner herein.

23. While examining the issue on hand, this Court has to see whether the claim of the petitioner herein can be considered when so many litigations are pending before this Court on the issue of grant of accelerated seniority and the correctness of the decision taken by the Government in amending the Rule and also the Special Leave Petition filed against the order of the Division Bench dated 05.04.2013 before the Hon'ble Supreme Court of India. After perusing the materials placed on record, this Court can safely come to a conclusion that the claim of the petitioner herein can be considered independent to the pending litigations before this Court and before the Hon'ble Supreme Court of India.

24. As rightly contended by the learned Senior counsel appearing on behalf of the petitioner that as far as the petitioner herein is concerned, the Government was very conscious on the individual merit of the petitioner herein and therefore recommended his name for grant of Presidential Gallantry Award. On the basis of the recommendation of the Government, the petitioner was granted gallantry award by His Excellency The President of India for his exemplary, meritorious, courageous act and service. Therefore, the petitioner herein cannot be treated as one of the Personnel merely associated with the STF and his interest cannot be clubbed along with hundreds of other Police Personnel who might have had passive participation in the Special Task Force operation. As far as the petitioner herein is concerned, the facts would undoubtedly disclose that his role in the Special Task Force, at the crucial time when a Forest Brigand was nabbed and killed, was direct and exemplary and therefore the Government itself has notified 7 Police Personnel in the Gazette Notification who were part of the actual Task Force in its operation called "Cucoon". Therefore, it is very unfair that the Government can be allowed to paint every claim of STF Personnel with the same brush. Once the Government itself has appreciated the exemplary courage exhibited by the petitioner herein along with few other Officers, such courageous act of the petitioner cannot be arrayed along with en masse claim of several hundreds of Police Personnel associated with the Task Force in normal line of their duty. Unless such exception is carved out in the matter of conformation of benefits on such Personnel, the courageous act of such Personnel like the petitioner herein will

go unnoticed and will pale into insignificance over a period of time. Therefore, the claim of the petitioner cannot be clubbed along with general claim for accidental promotion of hundreds of Personnel attached with the Special Task Force over a period of time.

25. In the backdrop of above narrative, if one looks at the claim of the petitioner herein, this Court has to come to the irresistible conclusion that no matter the number of litigations pending on the issue before this Court and the Hon'ble Supreme Court of India, the claim herein cannot be squarely brought within the ambit of decisions rendered by the learned single Judge of this Court dated 30.10.2009 in W.P.Nos.17132, 8886 of 2008 & 10290 of 2009. In those cases, the learned Judge has made a succinct observation that the denial of accelerated seniority contemplated under G.O.Ms.No.1396 dated 30.10.2007 cannot be made applicable since there was an individual assessment of merit and it was not an en masse promotion as granted to STF Personnel. Such finding of the learned Judge would squarely hold good for this petitioner as well since this Court has to make a clear distinction between en masse claim and a individual claim. In this case, this Court is fully convinced with the fact that the petitioner, because of his exemplary and courageous role in being part of the core Task Force which actually nabbed Veerappan, has to be treated differently from others and his career benefit has to stand apart from all other general claims of accelerated seniority which issue is pending before this Court and before the Hon'ble Supreme Court of India.

26. In the above circumstances, the Government which implemented the order passed by this Court dated 30.09.2009 in respect of 3 Police Officers namely K.Mohan, K.Thillai Natarajan and M.Chandrasekar who were involved in different courageous acts, in all fairness, the Government ought to have extended that benefit to this petitioner also. Unfortunately, the petitioner having served the Special Task Force, was branded along with the hundreds of other Police personnel involved in the Special Task Force. Therefore, his individual claim got submerged and subsumed in the mass claim. In fact, as rightly contended by the learned Senior counsel for the petitioner that four other Officers who were first identified along with the petitioner, has granted double promotions which meant that they had the benefit of accelerated seniority also. Therefore, this Court is unable to understand as to why the Government had adopted a discriminatory attitude towards this petitioner alone.

27. So much so is said on behalf of the Government about the various Government Orders issued and the amendment brought in the Rules were of subject matter of litigation before this Court and therefore, the request of the petitioner herein is not

feasible for compliance. Ofcourse, such submission made on behalf of the Government, may be correct and valid if this Court is to deal with general request for accelerated seniority of personnel attached to STF. Whereas, in this case, the cry of the petitioner herein is that his claim should not be identified with the en masse claim of hundreds of other personnel attached to STF and it should be identified as a special case where the petitioner was individually assessed as an exemplary police personnel and was recommended for the Presidential Medal and was also awarded with the said Medal. In which event, the Government ought to have placed the claim of the petitioner on a distinct pedestal than clubbing it with hundred others. It is very unfortunate that such exhibition of exemplary courage and valor has not invited due appreciation at the hands of the Government, but on the other hand, the petitioner was driven to litigation before this Court to secure the ends of justice. This Court is of the view that on its own the Government ought to have extended the benefit to the petitioner herein in terms of its own decision taken in implementing the orders of this Court dated 30.10.2009 in the aforementioned three writ petitions.

28. In fact, in the counter affidavit filed on behalf of the respondents and also in the course of the oral submissions made by the learned Special Government Pleader, the fact that the petitioner's participation in the Task Force in regard to his distinguished service in the Special Task Force has not been disputed and in fact, the Government cannot dispute at all in the face of the admitted facts. Therefore, it is needless to mention that the petitioner's claim cannot be pitchforked into the larger group claim thereby effacing the individual exemplary act by making it inconspicuous, resulting in denial of fair and just treatment to the petitioner. The claim therefore, ought to have been clearly identified as different as that of the others and the benefit of accelerated seniority ought to have been extended to the petitioner. Only on such grant of benefit, the petitioner act would be recognized as being exemplary and inspirational for the Police Department. Unfortunately, the Government has simply washed its hands without appreciating the claim of the petitioner in proper perspective on the clichéd understanding that the litigations are pending on the issues before this Court and before Hon'ble Supreme Court of India. Therefore, this Court is unable to countenance the rejection of petitioner's claim by the Government.

29. For the above said reasons, Writ Petition in W.P.No.3994 of 2018 is allowed and the Government Order in G.O.(D) No.488 Home (Pol.II) Department dated 31.05.2016 is hereby set aside and consequently there shall be a direction to the respondents to grant seniority to the petitioner in the cadre of Deputy Superintendent of Police on 30.10.2004 in furtherance of

G.O.Ms.No.1252, Home (Pol.VIII) Department, dated 29.10.2004 based on the Presidential Gallantry Award granted to him by His Excellency the President of India for his courageous act and also grant him further promotion on that basis to the higher post of Superintendent of Police. The respondents are directed to effect the consequential promotion to the petitioner to the next higher posts on the basis of re-fixed seniority in the cadre of Deputy Superintendent of Police and grant him all attendant benefits on such promotion. The respondents are directed to pass appropriate orders in this regard within a period of eight weeks from the date of receipt of copy of this Order. The other connected writ petition in W.P.No.28625 of 2018 shall stand disposed of on the above terms. No costs. Consequently, connected WMPs are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

- 1.The Principal Secretary to Government,
Home (Police II) Department,
Fort St.George, Chennai - 09.
- 2.The Director General of Police,
Dr.Radhakrishnan Salai,
Mylapore, Chennai - 04.
- 3.The Secretary,
Tamil Nadu Public Service Commission,
Chennai.
- 4.The Additional Chief Secretary to Government,
Home (Police 1-A) Department,
Fort St.George, Chennai - 09.

+1cc to Special Government Pleader sr.80200

Common
order in W.P.No.3994
and 28625 of 2018

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