

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :27.11.2019

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.33110 to 33111 of 2019

G.Rajendran-(Cadet No.49) ... Petitioner in W.P.No.33110/19

N.Rajakumaran (Cadet No.48)Petitioner in W.P.No.33111/19

Vs

1.The State of Tamil Nadu,
Rep by Secretary to Government,
Home (Police III) Department,
Fort St. George,
Chennai ? 600 009.

2.The Director General of Police,
Office of DGP,
Post Box No.601,
Dr.Radhakrishnan Salai,
Chennai ? 600 004.

3.The Superintendent of Police,
Tamilnadu Police Academy,
Oonamancheri, Vandalur,
Chennai ? 600 127. ...Respondents in all WPs

Prayer in both WPs.: Writ Petition filed under Article 226 of the Constitution of India praying to issue a WRIT OF MANDAMUS, directing the respondents 1 and 2 herein to rectify the pay anomaly by paying the differential loss amount from last drawn salary of petitioners as Head Constable and pay drawn as Sub - Inspector of police as personal pay and grant consequential allowances and benefits and arrears making up the monetary loss by way of pay protection considering the representations of the petitioners various dated 07/06/2018,10/09/2018 and 17.06.2018, 06.10.2018 respectively within the time frame fixed by this Court.

For Petitioners in both WPs : Mr.A.Edwin Prabhakar

For Respondents in both WPs : Mrs.Narmada Sampath, AAG
Assisted by Ms.Lalita,
Government Advocate

COMMON ORDER

Since the issues involved in both the Writ Petitions are one and the same, this Court is disposing of both the Writ Petitions by a Common Order.

2.These writ petitions have been filed by the petitioners to direct the respondents 1 and 2 herein to rectify the pay anomaly by paying the differential loss amount from last drawn salary of petitioners as Head Constables and pay drawn as Sub-Inspector of Police as personal pay and grant consequential allowances and benefits and arrears making up the monetary loss by way of pay protection considering the representations of the petitioners various dated 07/06/2018, 10/09/2018 and 17.06.2018, 06.10.2018 respectively within the time frame fixed by this Court.

3.The case of the petitioners is that the petitioners were appointed as Constables in the year 1993. Thereafter, the petitioners were participated in the selection process of Sub Inspector of Police by direct recruitment in the year 1997 ? 1998 and secured the relevant cut off marks. However, the appointment orders were not issued on the ground that unsuccessful candidates were approached the Tamilnadu Administrative Tribunal in O.A.Nos.9825 of 1998 and batch of cases, which held that the State is one unit there should be one cut off mark for each category in Tamil Nadu Administrative Tribunal. Accordingly, the Tamilnadu Administrative Tribunal passed an order dated 19.07.2001 and the same was challenged before this Court in W.P.No.17639 of 2001 and batch of cases before this Court, this Court by its order dated 25.02.2005, confirmed the orders of the Tamilnadu Administrative Tribunal. Aggrieved by the said order, the respondents filed SLP No.7667 of 2014 in SLP (C)No.21828 of 2006, etc before the Hon'ble Apex Court and the Hon'ble Apex Court by its order dated 07.08.2014, confirmed the orders of the State Administrative Tribunal as well as this Court. Again the petitioner and similarly situated persons were filed writ petition before this Court in W.P.No.10232 of 2003 to consider the claim for appointment for the post of Sub Inspector of Police. However, the same was dismissed on the ground of laches. In the meanwhile, the petitioners were promoted as Head Constables in the year 2008. The petitioners filed writ petition before this Court, this Court by its order dated 27.01.2016 allowed the writ petition. As against the said order, the respondents 1 and 2 preferred

writ appeal in W.A.No.322 of 2017 and batch of cases before the Division Bench of this Court, this Court by its order dated 02.08.2017 directed the Government to consider the petitioners case for issue of appointment orders. Thereafter, the respondents 1 and 2 issued appointment orders infavour of the petitioners vide G.O.(Ms.)No.760 Home (Police.3) Department dated 16.10.2017. After securing the appointment order, the petitioners were appointed as Sub Inspectors and joined the duties on 01.06.2018. The petitioners were drawing basic pay of Rs.39,600/-. Prior to appointment, petitioners last drawn salary is higher than the present salary. Due to the present pay fixation of minimum pay of Rs.36,900/-; since the petitioners suffered huge monetary loss in basic pay itself, therefore, all the petitioners sent representations to the respondents 1 and 2 to relax the relevant rules to order pay protection to save the families of the petitioners from huge financial losses and suffering on the grounds of sympathy and equity. Till date, the petitioners representations were not considered. Hence, these writ petitions before this Court.

4.The learned counsel appearing for the petitioners would submit that the petitioners were successful in the direct recruitment for post of Sub Inspectors in the year 1998 due to litigation the petitioners were not appointed in the same year and the appointment orders were issued only in the year 2017. If they would have appointed in the year 1998 itself, the pay protection will be given. Hence due to the Administrative reasons was given promotion at relevant point of time. Hence, in order to remove the pay anomaly between the petitioners and other similar situated persons. He would further submit that the similar issue was dealt by this Court and the Division Bench of this Court by its order dated 02.08.2017 allowed the writ Appeal in W.A.No.322 of 2017. The petitioners made representations, till date, the representations were not considered. Hence, this Court may issue direction to direct the first respondent to consider the representation within a reasonable time as fixed by this Court.

5.Per contra, the learned Additional Advocate General appearing for the respondents would submit that the similar type of representation was rejected by the first respondent on 25.04.2017 and the same was communicated to the Director General of Police. However, there is no legal impediment to dispose of the representations within a reasonable time as fixed by this Court.

6.Considering the facts and circumstances, considering the limited request made by the learned counsel appearing for the petitioners, without expressing any opinion and without going into the merits of the case, I am inclined to issue direction to

direct the first respondent to consider the representations dated 07.06.2018, 10.09.2018, 17.06.2018 and 06.10.2018 of the petitioners and pass orders on merits and in accordance with law within a period of six weeks from the date of receipt of a copy of this order.

7. Accordingly, these Writ Petitions are disposed of. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

jrs
To

1. The Secretary to Government,
State of Tamil Nadu,
Home (Police III) Department,
Fort St. George,
Chennai ? 600 009.

2. The Director General of Police,
Office of DGP,
Post Box No.601,
Dr.Radhakrishnan Salai,
Chennai ? 600 004.

3. The Superintendent of Police,
Tamilnadu Police Academy,
Oonamancheri, Vandalur,
Chennai ? 600 127.

+4ccs to Mr.A.Edwin Prabhakar , Advocate SR.No. 9590,99589
+1 cc to Government Pleader Sr.No. 99419

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A.SK(28/11/2019)

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