

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.11.2019

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.22250 of 2019

J.Kirubananthan (SI Cadet No.23)

...Petitioner

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

Prayer: Writ Petition filed under Article 226 of Constitution of India, seeking for the issuance of a Writ of Mandamus, to direct the respondents 1 and 2 herein to consider the representations of petitioner dated 17.06.2018 and 20.05.2019, within the time frame fixed by this Court.

For Petitioner : Mr.A.Edwin Prabhakar

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

ORDER

The writ petition has been filed by the petitioner to direct the respondents 1 and 2 herein to consider the representations of petitioner dated 17.06.2018 and 20.05.2019, within the time

frame fixed by this Court.

2.The case of the petitioner is that the petitioner was appointed as Constable in the year 1993. Thereafter, the petitioner was 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 order was 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 the Tamilnadu 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 Tamilnadu Administrative Tribunal as well as this Court order. Again the petitioner 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. However, the same was dismissed on the ground of laches. In the meanwhile, the petitioner was promoted as Head Constables in the year 2008. The petitioner 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 & 2 issued appointment orders infavour of the petitioner vide G.O. (Ms.)No.760 Home (Police.3) Department dated 16.10.2017. After securing the appointment order, the petitioner was appointed as Sub Inspectors and joined the duty on 01.06.2018. The petitioner was drawn basic pay of Rs.39,600/-. Prior to the appointment his drawn salary is Rs.57,322/-. Due to the present pay fixation of minimum pay of Rs.36,900/- since the petitioner suffered huge monetary loss in basic pay itself, therefore, petitioner was sent representation dated 17.06.2018 and 20.05.2019 to the respondents 1 and 2 to relax the relevant rules to order pay protection to save the family of the petitioner from huge financial loss and suffering on the ground of sympathy and equity. Till date, the petitioner representations were not considered. Hence, the petitioner filed writ petition before this Court.

3.The learned counsel appearing for the petitioner would submit that the petitioner was successful in the direct recruitment for post of Sub Inspectors in the year 1998 due to litigation the petitioner was not appointed in the same year and the appointment orders were issued only in the year 2017. If he would have appointed in the year 1998, the pay protection will be given. Hence due to the Administrative reason was given promotion at relevant point of time. Hence, in order to remove the pay anomaly between the petitioner 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 petition in W.A.No.322 of 2017. The petitioner 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.

4.Per contra, the learned Additional Advocate General appearing for the respondents would submit that 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 representation within a reasonable time as fixed by this Court.

5.Considering the facts and circumstances, considering the limited request made by the learned counsel appearing for the petitioner, 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 representation of the petitioner 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.

6.Accordingly, the Writ Petition is disposed of. No costs.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

pam

To

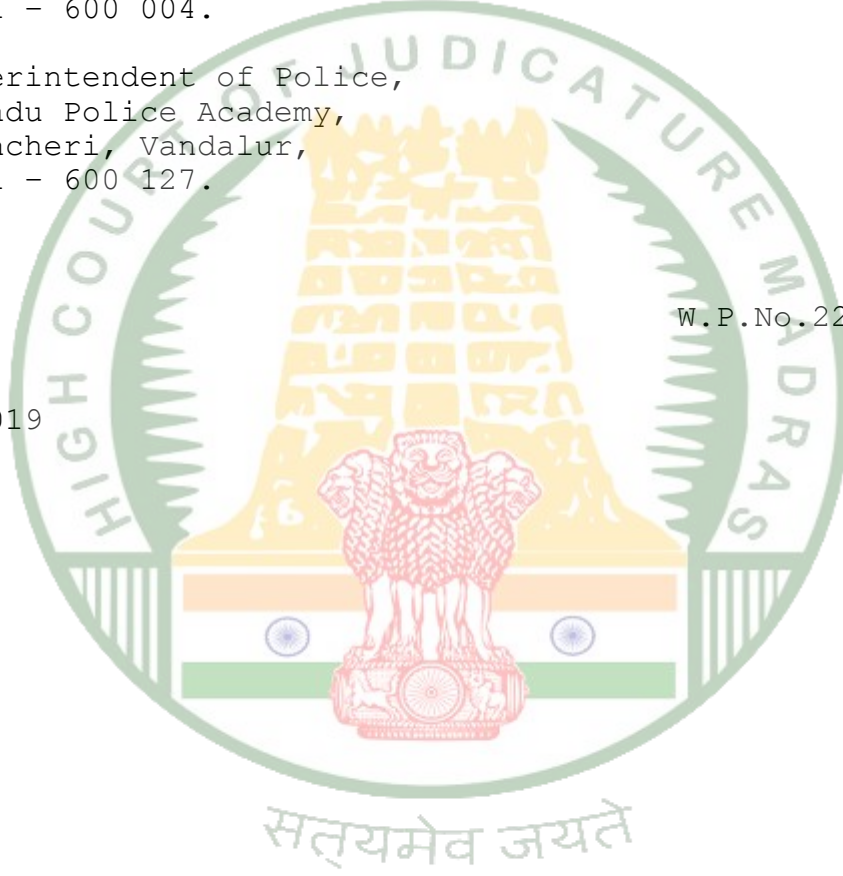
1.The Secretary to Government,
Home (Police III) Department,
Fort St. George,
Chennai - 600 009.

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.

W.P.No.22250 of 2019

aa22/11/2019



WEB COPY