



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 29.11.2019
CORAM

THE HONOURABLE MR. JUSTICE S.S.SUNDAR

W.P.(MD)No.13769 of 2010

and

M.P.(MD)Nos.1 and 2 of 2010

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V.Kannan

... Petitioner

vs.

1.The Additional Director General of Police,
Armed Police, Chennai - 600 010.

2.The Inspector of Police,
Armed Police, Chennai - 600 010.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order of first respondent passed vide Proc. In C.No.A2/22220/2010 R.O.394/2010, dated 02.11.2010 and quash the same and consequently, to direct the respondents to follow the seniority of the petitioner fixed by the second respondent as per its proceedings in Na.Ka.No,P2(1)/17932/IG/2000, dated 17.10.2000 and to include the name of the petitioner in the panel for the post of Sub Inspector of Police (RT) for the year 2010-11 in the appropriate place in between 2 and 3 and consequently, to direct the respondents to promote the petitioner as Sub Inspector of Police.

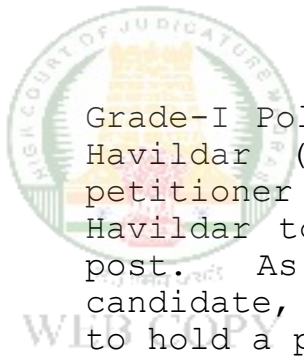
For Petitioner : Mr.C.Jeganathan
for M/s.Veera Associates

For Respondents : Mr.R.Murugan
Additional Government Pleader

ORDER

This Writ Petition is filed for issuing a Writ of Ceriorarified Mandamus, to quash the impugned order passed by the first respondent, dated 02.11.2010 and to direct the respondents to follow the seniority of the petitioner fixed by the second respondent, dated 17.10.2000 and to include the name of the petitioner in the panel for the post of Sub-Inspector of Police (RT) for the year 2010-11 in the appropriate place and consequently, to direct the respondents to promote the petitioner as Sub-Inspector of Police.

2.It is the case of the petitioner that he was recruited as Grade-II Police Constable on 15.03.1994 and he was promoted as



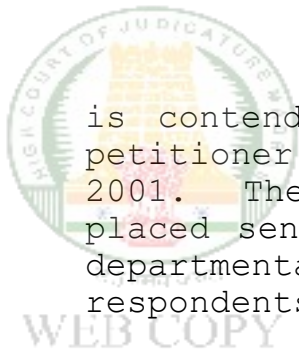
Grade-I Police Constable/Nayak on 26.02.1998 and he was promoted as Havildar (RT) on 11.05.1998. It is the specific case of the petitioner that the petitioner was reverted from the post of Havildar to Nayak and some of his juniors were posted in the said post. As per Tamil Nadu Police Subordinate Service Rules, the candidate, who passed in three department tests, alone are competent to hold a post in Radio and Telegraph Branch.

3.It is the further case of the petitioner that he was sponsored for the training classes during March-1998 to September'1998 and that he completed departmental tests during February-2001. Hence, it is stated that the petitioner was fully qualified for all the promotional posts in RT Department. Though the petitioner was given the post of Havildar, the grievance of the petitioner is that the seniority of the petitioner was placed below his junior. Though it is stated that the petitioner's seniority with his batch mates was restored by the proceedings of the second respondent, dated 17.10.2000 and the petitioner was working as Havildar in the respondent department, by impugned order, dated 02.11.2010, without assigning any reasons or without giving any opportunity to the petitioner, the first respondent re-fixed the petitioner's seniority, as if the petitioner is eligible for promotion to the post of Havildar only on 18.03.2004. Since the reversion of seniority, after ten years without issuing any notice to the petitioner, has affected the service condition of the petitioner, the petitioner has come forward with the present Writ Petition.

4.It is seen that the petitioner was regularised in the post of Nayak on par with his junior with effect from 03.05.2000. The petitioner's service as Havildar was regularised with effect from 14.04.2002 by order, dated 15.04.2002. However, it is stated in the impugned order that the petitioner was qualified for the promotional post of Havildar only on 31.12.2003 and that he is entitled to be promoted only on 18.03.2004, after including his name in the promotional panel-2004-05. The learned Counsel for the petitioner submitted that the impugned order is arbitrary, illegal and violative of principles of natural justice. The learned Counsel for the petitioner pointed out that there was no illegality or irregularity at the time of fixing the seniority of the petitioner in 2004 and that the the impugned order re-fixing the seniority after a period of ten years without assigning any reason is unconstitutional. Though the petitioner has come forward with the specific case that he was treated as senior all along in his batch mates, the respondents has placed the petitioner as junior to those, who came to RT Department much later.

5.The respondents failed to convince this Court that the petitioner's entry in RT Department was later than his junior in his batch mates by any document. The impugned order does not say that

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is contended in the counter affidavit. It is admitted that the petitioner has passed in all the department tests, long prior in 2001. The contention of the petitioner that the others, who have placed senior to the petitioner, have not even passed some of the departmental tests, is also not specifically denied by the respondents in the counter affidavit.

6.In such circumstances, this Court is unable to accept the case of the respondents, as to how the seniority, which was fixed and followed in 2000 and in 2004 can be altered after several years. The respondents in the impugned order has given certain reasons, contrary to facts. In the counter affidavit, it is stated that the petitioner is junior to one Kaliamurthy and Muniyasamy, even though these two persons were shown as junior in 2000 and 2004 in the post of Nayak and in the post of Havildar. The fact, that the petitioner was not given any opportunity before passing the impugned order, also suggest that there was no application of mind by the respondents, while passing the impugned order, refixing seniority.

7.As a result, this Writ Petition is allowed and the impugned order, dated 02.11.2010 is set aside. The respondents are directed to follow the seniority of the petitioner fixed by the second respondent as per proceedings, dated 17.10.2000 by including the name of the petitioner in the promotional post as Sub-Inspector (RT) in the year 2010 in the appropriate place and consider the petitioner's candidature for promotion as per the seniority that would be altered pursuant to this order. This exercise shall be done within a period of three months from the date of receipt of a copy of this order. In case the petitioner's seniority has to be revised on any valid ground, the respondents shall issue prior notice based on facts, why the proposed refixing of seniority is required. Only after issuing notice and hearing the petitioner, the petitioner's seniority as per proceedings, dated 17.10.2000 can be altered. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (records)

// True Copy //

Sub Assistant Registrar(CS)

cmr

To

1.The Additional Director General of Police,
Armed Police, Chennai - 600 010.

<https://hcservices.ecourts.gov.in/hcservices/>



2.The Inspector of Police,
Armed Police, Chennai - 600 010.

+1 CC to M/s.VEERA ASSOCIATES, Advocate (SR-102806[F] dated
29/11/2019)

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