

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 26.08.2020

Pronounced on : 01.09.2020

CORAM:

THE HON'BLE MR. JUSTICE V.PARTHIBAN

WP No.1579 of 2020

1. D.Prem Ananth
Sub-Inspector of Police,
Tamil Nadu Commando Force,
Marutham, Chennai - 600 028.

2. T.K.Senthil Kumar
Sub-Inspector of Police,
Villupuram P.R.S.,
Villupuram District.

3. K.Devarathinam
Q Branch CID,
Cuddalore District.

4. G.Muthuramu, S/o.Gopal
Sub-Inspector of Police,
SBCID, Madurai City.

5. M.Govindaraju
Sub-Inspector of Police,
TSP, VII Battalion,
Madurai-14.

6. V.Sivagurunathan
Sub-Inspector of Police,
Costal Security Group,
Cuddalore District.

7. M.Senthilnathan, S/o.Murugesan,
Sub-Inspector of Police,
TSP, III Battalion, Chennai.

8. T.Nadhamuni
Sub-Inspector of Police,
T-1, Ambattur Traffic Police Station,
Chennai.

9. K.Venkatesan
Sub-Inspector of Police,
K-3, Aminjikarai Police Station, Chennai.

10. C.Murugan
Sub-Inspector of Police,
Kodaikaanal Traffic Police Station,
Dindugal District.

11. P.Raja
Sub-Inspector of Police,
T-1, Ambattur Traffic Police Station,
Chennai.

12. R.Venkatachalam,
Sub-Inspector of Police,
Armed Reserve, Coimbatore City.

13. M.Panchavarnam,
Sub-Inspector of Police,
Mathichiyam Traffic Police Station,
Madurai City.

14. S.Sudalaimuthu
Sub-Inspector of Police,
Thiruchendur Traffic Police Station,
Tuticorin District.

15. R.Mayilerum Perumal,
Sub-Inspector of Police,
Armed Reserve, Tuticorin District.

... Petitioners

Vs

1. State of Tamilnadu, Rep. By its
Secretary to Government, Home (Pol.III)
Department,
The Secretariat, Chennai - 600 009.

2. The Director General of Police,
Head of Police Force,
Dr. Radha Krishnan Road,
Mylapore, Chennai - 600 004.

... Respondents

PRAYER: This Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the respondents to consider the representation dated 10.01.2020 of the petitioners for granting conversion to them to Category-I/Taluk from their existing Category-II/Armed Reserve and Category-III/TSP as Sub-Inspector

of Police (Taluk) by way of age relaxation as was granted earlier in G.O.(Ms.) Nos.446, Home (Pol.III) Department dated 27.05.2003, G.O.(Ms.) No.312, dated 04.04.2003, G.O.(Ms.) No.1164, Home (Pol.III) Department dated 06.08.2007, G.O.(Ms.) No.249 Home (Pol.III) Department dated 29.02.2016, G.O.(Ms.) No.830, Home (Pol.III) Department dated 25.11.2016, G.O.(Ms.) No.9, Home (Pol.III) Department dated 06.01.2020 and other connected orders within time frame.

For Petitioners : Mr.K.Ravi Anantha Padmanbhan

For Respondents : Mr.P.S.Sivashanmugasundaram
Special Government Pleader

O R D E R

The matter is taken up today through web hearing.

2. The writ petition has been filed seeking for the following prayer:

"for issuance of a Writ of Mandamus, directing the respondents to consider the representation dated 10.01.2020 of the petitioners for granting conversion to them to Category-I/Taluk from their existing Category-II/Armed Reserve and Category-III/TSP as Sub-Inspector of Police (Taluk) by way of age relaxation as was granted earlier in G.O.(Ms.) Nos.444, Home (Pol.III) Department dated 27.05.2003, G.O.(Ms.) No.312, dated 04.04.2003, G.O.(Ms.) No.1164, Home (Pol.III) Department dated 06.08.2007, G.O.(Ms.) No.249 Home (Pol.III) Department dated 29.02.2016, G.O.(Ms.) No.860, Home (Pol.III) Department dated 25.11.2016, G.O.(Ms.) No.9, Home (Pol.III) Department dated 06.01.2020 and other connected orders within time frame."

3. All the petitioners herein have been now working as Sub Inspectors of Police. They were originally appointed in 2011 as direct recruit under the 20% departmental quota. The Government has passed several orders viz., G.O.(Ms.) Nos.444, Home (Pol.III) Department dated 27.05.2003, G.O.(Ms.) No.312, dated 04.04.2003, G.O.(Ms.) No.1164, Home (Pol.III) Department dated 06.08.2007, G.O.(Ms.) No.249 Home (Pol.III) Department dated 29.02.2016, G.O.(Ms.) No.860, Home (Pol.III) Department dated 25.11.2016 and G.O.(Ms.) No.9, Home (Pol.III) Department dated 06.01.2020, granting conversion of Sub Inspectors of Police from their original posting in Armed Reserve (AR) and Tamilnadu Special Police (TSP) into Sub Inspectors of Police (Taluk).

4. According to the petitioners, three categories are available for deploying the police personnel. The category-III is Tamilnadu Special Police (TSP) or Battalion, Category - II is Armed Reserve (AR) and Category-I is Sub Inspectors of Police (Taluk) or Law and Order. According to the petitioners, normally after serving for a particular period of time, periodical requests were made by the police personnel working in Categories II and III, for conversion into Law and Order i.e. Category-I/Taluk and such requests were frequently considered over a period of time and the Government has issued number of orders, as indicated above.

5. As far as the petitioners' batch of the year 2011, conversion was granted through G.O.(Ms.) No.9, Home (Pol.III) Department dated 06.01.2020, but, the petitioners herein have not been granted, since, such conversion was confined to the police personnel, who had not crossed the age of 40 years and these petitioners having crossed the upper age limit, were left out from the said conversion. Therefore, the petitioners have been giving repeated representations requesting to consider their claims also, as they have quoted several instances where Government have passed orders converting the police personnel from categories III & II to category I, even in respect of persons, who have crossed the age of 40 years. In fact, one such Government Order was also relied on by the petitioners i.e. G.O.(Ms.) No.830, Home (Pol.III) Department dated 25.11.2016, wherein upto to the age of 50 years, conversion was granted to Category I.

6. Although the batch mates of the petitioners below 40 years were granted conversion on 06.01.2020 vide G.O.(Ms.) No.9, Home (Pol.III) Department and the representations on their behalf had not evoked any response, the petitioners are before this Court seeking for a direction for granting conversion to them also in line with the several Government orders passed by the 1st respondent.

7. The learned counsel for the petitioners would submit that numerous orders were being passed in regard to the subject matter of the petitioners' claim and all those Government Orders have also been filed in the typed set of documents. The learned counsel would also draw the attention of this Court to the Government Orders, in particular G.O.(Ms.) No.830, Home (Pol.III) Department dated 25.11.2016, granting conversion to 33 Sub Inspectors of Police, who were above 40 years of age of the previous batch to these petitioners. Therefore, he would submit that crossing of the upper age limit, as fixed by the Government was not considered to be mandatory and that the Government over a period of time, was relaxing the age ceiling whenever conversion orders were granted in response to the specific

representations made by the police personnel deployed in Categories II and III.

8. The learned counsel would submit that so far as present year is concerned there were 222 vacancies earmarked for conversion and only 156 Sub Inspectors of Police have given their willingness. Therefore, there are 66 clear vacancies in the posts of Sub Inspectors of Police (Taluk), in the present batch itself and against those vacancies, the petitioners can be considered, as a matter of parity. He would therefore request this Court that the Government may be directed to follow their own orders passed earlier in order to avoid disparity in the treatment of identically placed Sub Inspectors of Police.

9. In response to the notice issued, Mr.P.S.Shivashanmuga Sundaram, learned Special Government Pleader entered appearance for the respondents.

10. The learned Special Government Pleader would acknowledge the fact that 66 vacancies are available in Category-I for conversion. However, the only point of objection is that these petitioners have crossed the age of 40 years. In respect of earlier Government Orders, granting conversion to even police personnel, crossing the age of 40 years, the position is not disputed.

11. In the above said circumstances, considering the fact that these petitioners are similarly and identically placed as that of the several other police personnel who had been benefited in the past by Government decisions converting them from Categories II and III to I, these petitioners cannot be placed on a different footing in the matter of considering their legitimate claim for conversion.

12. Once the facts, as disclosed in the affidavit filed in support of the writ petition, are conclusively established in favour of the petitioners, it is imperative on the part of the Government to treat all the Sub Inspectors of Police in the same scale of consideration and the Government cannot adopt a different and varying consideration from time to time. Even otherwise, factually, this Court is convinced that when in-service candidates are permitted to participate in the selection by way of direct recruitment for appointment in the post of Sub Inspector of Police prescribing upper age limit as 45 years, this Court does not see any acceptable reason as to why conversion alone should be restricted upto the age of 40 years. Nonetheless, the Government itself has taken a decision on some occasions, in converting police personnel who were similarly placed like the petitioners herein and granted them conversion even in respect of persons who have crossed the age of 40 years.

In such event, this Court is unable to see as to how these petitioners alone should be deprived of such benefits, only on the ground that they have crossed the age of 40 years. When admittedly sufficient vacancies are available, there cannot be any obstacle or road block to consider the prayer of the petitioners herein favourably.

13. Therefore, the writ petition is allowed and the respondents are directed to pass appropriate orders granting conversion to these petitioners as Sub Inspectors of Police (Taluk), in line with earlier Government Orders issued in respect of the same subject matter of the claim, within a period of eight weeks from the date of receipt of a copy of this order.

14. It is also made clear that if, any age relaxation is required as a pre requisite for grant of the conversion, the same shall be granted by the Government in fulfillment of the equality principle enshrined in Articles 14 and 16 of the Constitution of India.

15. The writ petition is allowed, as indicated above. No Costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government,
State of Tamilnadu,
Home (Pol.III) Department,
The Secretariat, Chennai - 600 009.

2. The Director General of Police,
Head of Police Force,
Dr. Radha Krishnan Road,
Mylapore, Chennai - 600 004.

+1 cc to M/s.k.Ravi Anandha Padmanaban, Advocate Sr.No.28515

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SSV(CO)
RMP(02/09/2020)