

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.12.2020

C O R A M

THE HONOURABLE MR.JUSTICE P. VELMURUGAN

W.P.No.27478 of 2004

G.Murugan
S/o.K.Gopal

... Petitioner

Vs.

1.Inspector General of Police,
Armed Services,
Trichy.

2.Deputy Inspector General of Police,
Armed Police,
Chennai.

3.The Commandant,
TSP II Battalion,
Avadi.

...Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India praying to issue a writ of Certiorarified Mandamus, calling for the records of the 1st respondent relating to the order No.P.B.2(1)/15010/G.G./2003 dated 10.02.2004 and quash the same and direct the 1st respondent to regularize the appointment from 19.05.1997.

For Petitioners : Mr.A.S.Baalaji

For Respondents : Mr.K.Magesh

Special Government Pleader

O R D E R

The petitioner was appointed as Grade II PC on 16.06.1993 and had completed the Armour Course on 22.11.1995 and posted to QM (Quarter Master) store as Armourer PC with effect from 26.01.1996. His place of seniority in the Armour line is:

- 1.PC 3451 - Thirunavukarasu
- 2.PC 2198 - Govindaraj
- 3.PC 2480 - Murugan

Originally, the petitioner was temporarily promoted as Havildar (Armourer). Subsequently he was reverted and thereafter, he was promoted as Havildar on 20.09.1998. But according to the petitioner, his service has to be regularized from the date of promotion as temporary Havildar.

2. Learned counsel for the petitioner would submit that though he was temporarily promoted as Havildar on 19.05.1997, subsequently he was reverted on 08.07.1998 and thereafter, he was re-promoted on 20.09.1998 and therefore, he is entitled for regularization as Havildar from the date of temporary promotion i.e, from 19.05.1997 onwards. The learned counsel would submit that the petitioner was qualified as on 31.12.1996 to be included in the 'C' list of PC to Havildar (Armourer) for the year 1997-1998, but he was not promoted as Armed Havildar on regular basis for no fault of his. However, subsequently his name was included in the 'C' list of 1999-2000 and his service was regularized only with effect from 12.11.1999. But, the petitioner was eligible for promotion and he was qualified on 31.12.1996 itself and his service has to be regularized from the date of his temporary promotion on 19.05.1997. Therefore, the impugned order passed by the 1st respondent relating to the order No.P.B.2(1)/15010/G.G./2003 dated 10.02.2004 has to be set aside and the petitioner has to be regularized from the date of temporary promotion on 19.05.1997.

3. Mr.K.Magesh, learned Special Government Pleader would submit that on the said date there was no vacancy. Thirunavukarasu and Govindaraj are seniors to the petitioner. Only one post of Havildar (Armr.) was sanctioned to the unit and Thirunavukarasu was working in the said post even at the time of posting of the petitioner as Armourer P.C. Subsequently, Thirunavukarasu returned back to the parent department. In the said vacancy, the petitioner was then promoted as temporary Havildar (Armr.), and was reverted back to the original post for want of vacancy. Therefore, he was not eligible as on date of temporary promotion. However, during the course of time, when the vacancy arose, he was re-promoted as Havildar on 20.09.1998 onwards and all the benefits were extended to him as per the Rules and therefore, even otherwise, the petitioner is not entitled as per Rule 23 (b) of Tamil Nadu State and Subordinate Services Rules and there is no merit in this case.

4. Heard both sides and perused the records.

5. The petitioner was originally appointed as Grade II PC on 16.06.1993 and he was posted as Havildar on 20.09.1998. He was temporarily promoted as Havildar on 19.05.1997. Subsequently he was reverted as Armed PC on 08.07.1998 and subsequently re-promoted as Havildar (Armr.) on 20.09.1998 and he was regularized in the said post on 12.11.1999. As stated by the learned counsel for the petitioner, the 'C' list was not prepared for the year 1997-1998 and also the petitioner was qualified as on 31.12.1996. However, only one vacancy was sanctioned and one Thirunavukarasu was appointed and the petitioner was temporarily accommodated in the post of Thirunavukarasu, who came to the parent department. Therefore, the petitioner's temporary promotion was cancelled. He was reverted back to the post of Armed PC for want of vacancy, soon after vacancy arises the petitioner was promoted as Havildar on 20.09.1998 and his service was subsequently regularized on 12.11.1999. Therefore, due to non drawal of 'C' list, no prejudice

is caused to the petitioner. The petitioner has not established that due to the non drawal of panel, he has been deprived of his promotion. Therefore, as soon as the vacancy arose, the petitioner, who was qualified got promoted and therefore, there is no merit in this case.

Accordingly, this writ petition is dismissed. No costs.

17.12.2020

-sd-

Assistant Registrar

//True copy//

Sub Assistant Registrar

To

1.The Inspector of Police,
Armed Services,
Trichy.

2.The Deputy Inspector General of Police,
Armed Police,
Chennai.

3.The Commandant,
TSP II Battalion,
Avadi.

+ 1 cc To The Government Pleader, High Court Madras SR.NO.41961

W.P.No.27478 of 2004

NMI (CO)
RRI 21/01/2021

सत्यमेव जयते

WEB COPY