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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.02.2020

CORAM:

THE HON'BLE MR.JUSTICE M.GOVINDARAJ

W.P.No.26713 of 2009

AND MP Nos.1,2 of 2009

C.Rajadurai

... Petitioner

Vs.

1. The Home Secretary to Government
Home(Police III) Department
Fort St.George, Chennai-9

2 The Director General of Police
Mylapore, Chennai-4

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent in connection with the impugned order passed by him in Rc.No.61382/Rect.II(1)/2003 dated 28.11.2007 and the 1st respondent letter No.76296/Police.3/2007-3 dated 15.11.2007 and quash the same and further direct the respondents to refix the seniority of the petitioner and place his name in the appropriate place in the select list of the year 1994-95 for the Sub-inspector of Police along with his batch mates and promote the petitioner as Inspector of Police.

For Petitioners : Mr.S.Sivakumar

For Respondents : Ms.R.Jananki, AGP

O R D E R

Petitioner undergone a selection conducted by the Uniform Services Recruitment Board for the year 1994-95 under direct recruit quota and came out successful. During medical examination, he was declared disqualified. Thereafter, he challenged the disqualification by way of Original Application before the Tamil Nadu Administrative Tribunal. The Tribunal has given a direction constitute a second medical board and petitioner was declared not suffering from any deficiency. Thereafter, he was sent for training in the next batch along



with candidates recruited in the year 1997-98 and was appointed to service on 16.04.1999. Thereafter, the petitioner was transferred to Law and Order Police after he under went condensed course for Law and Order and posted as Sub Inspector in the year 2007. He made a representation to the respondents to grant seniority on par with the batch mates who were recruited in the year 1994 and appointed to service in the year 02.06.1997. The same was rejected by the 2nd respondent in proceedings No. Rc.No.61382/Rect.II(1)/2003 dated 28.11.2007. Aggrieved over the same, the petitioner preferred the above writ petition.

2. Learned counsel for the petitioner would contend that the petitioner was fully eligible to be appointed in the year 1994-95 as the selection conducted for the year 1994-95. However, because of the mistake committed by the respondents, he was sent for training along with 1997-98 batch. On completion of training he should have been posted along with his batch mates of the year 1994-95. However, it was afforded to him. Another person who was selected along with him has approached this Court in W.P.No.13662 of 2008, wherein this Court after considering the background of this case had directed the respondents to revive the seniority of that person and directed the respondents to place the petitioner therein in appropriate place in the selection list for the year 1994-95.

3. Following the judgment, two other persons selected along with him were also fixed in the seniority of the year 1994-95. Learned counsel submitted that similar relief to be granted to him also.

4. Learned Additional Government Pleader appearing for the respondents would vehemently contend that the petitioner was actually undergone training in the year 1997-98 and appointed in service on 16.04.1999. His appointment was made on consideration of the direction given by the Tribunal. He was put on probation and his services were regularised on 16.04.1999 and therefore he can be considered only as per his year of recruitment. Therefore, as per Rule 15 and 24 of Tamil Nadu Subordinate Service Rules, the fixation of seniority based on the year of recruitment, date of commencement of probation and marks obtained in the final examination conducted at the end of the basic training shall be the criteria and it cannot be fixed in the previous batch which has completed its training as early as on 1997. Therefore, the rejection order passed by the respondents is very much legal.

5. Heard the submission of both sides.



6. The admitted fact remains that the petitioner came out successful to the post of Sub-Inspector of Police in the selection conducted in the year 1994-95. Except for the medical test, he passed all other tests. Though he was disqualified in the first round, after the direction given by the Tamil Nadu Administrative Tribunal, 2nd medical board was constituted and the petitioner was declared that he was medically fit and thereby he was entitled to appointment to the post of Sub-Inspector as per selection conducted in the year 1994-95. When a person was selected for a post which was available for the year 1994-95, he should have been appointed to that post of that particular recruitment year. For all purposes his selection and appointment deemed to have completed for the year 1994-95. Rejection on medical grounds and postponement of training was due to the administrative errors. Petitioner shall not be deprived of his rights with respect to his appointment along with his batch mates for the year 1994-95. Once he completed the training, he becomes eligible to be appointed along with his batch mates. In the case of one Senthil Kumar, the respondents have refixed the seniority from 1997-98 to the year 1994-95. A person whose claim was rejected along with Senthil Kumar has approached this Court in W.P.No.13662 of 2008 in which this Court by its order dated 06.08.2008 has directed similar treatment to that petitioner and accordingly he was also given appropriate place in the select list for the year 1994-95. Other two persons who were selected in the year 1994-95 had approached this Court in W.P.No.7242 and 7243 of 2009 and they were also by an order dated 12.02.2014 given the same benefit of revision of seniority on par with other batch mates of the year 1994-95.

7. The present case of the petitioner is also one in respect of the select list for the year 1994-95 and the similar benefit shall be extended to him also. It is also out of the place to note that he has undergone condensed course training for Law and Order course. In all aspects, he is fully qualified to be appointed on par with his batch mates for the year 1994-95. Therefore, the impugned order of rejection of request passed by the 2nd respondent in Rc.No.61382/Rect.II(1)/2003 dated 28.11.2007 is set aside and a direction is given to the respondents to refix the seniority of the petitioner and to place him in the appropriate place in the select list for the year 1994-95 for Sub-Inspector of Police along with his batch mates who were sent training on 02.06.1997 with all consequential benefits.



Writ petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

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-s/d-
Assistant Registrar

True Copy
Sub-Assistant Registrar

kpr

To

1. The Home Secretary to Government
Home(Police III) Department
Fort St.George, Chennai-9

2 The Director General of Police
Mylapore, Chennai-4

+1 cc to Mr.S.Sivakumar advocate sr15065

+1 cc to the Government Pleader sr16231

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