

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.08.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.Nos.26986 to 26988 of 2009

and

M.P.Nos.1, 1 and 1 of 2009

L.Nagalingam ... Petitioner in W.P.No.26986 of 2009
K.Kannan ... Petitioner in W.P.No.26987 of 2009
M.Nirmal Britto ... Petitioner in W.P.No.26988 of 2009
vs.

1. The Secretary to Government,
Home (Police IV) Department,
Fort St. George,
Chennai - 600 009.
2. The Director General of Police,
Chairman, T.N. Uniformed Services,
Recruitment Board,
Anna Salai, Chennai - 600 002.
3. The Director General of Police,
Dr.Radhakrishnan Salai,
Mylapore,
Chennai - 600 004. ... Respondents in all W.Ps.

W.P.No.26986 of 2009 is filed under Article 226 of the Constitution of India praying for the issuance of a writ of Mandamus, directing the 2nd respondent to award full marks for the disputed questions to the Petitioner and select and appoint the Petitioner as Sub-Inspector of Police under Departmental candidates adopting 20% quota and fix appropriate place in the selection, and grant all consequential service & Monetary benefits without considering the candidates P.G.Degree without basic degree.

W.P.No.26987 of 2009 is filed under Article 226 of the Constitution of India praying for the issuance of a writ of Mandamus, directing the 2nd respondent to award full marks for the disputed questions to the Petitioner and select and appoint the petitioner as Sub-Inspector of Police under Departmental candidates adopting 20% quota and fix appropriate place in the selection and grant all consequential service and monetary benefits without considering the candidates, who obtained P.G. degree without basic degree.

W.P.No.26988 of 2009 is filed under Article 226 of the Constitution of India praying for the issuance of a writ of Mandamus, directing the 2nd respondent to award full marks for the disputed questions to the petitioner and select and appoint the Petitioner as Sub-Inspector of Police under Departmental candidates adopting 20% quota and fix appropriate place in the selection and grant all consequential service and monetary benefits without considering the candidates, who obtained P.G. degree without basic degree.

For Petitioner in all W.Ps. : Mr.M.Muthappan

For Respondents in all W.Ps. : Mr.K.Magesh,
Special Government Pleader

COMMON ORDER

Petitioners herein have come up with the above Writ Petitions seeking a direction to the 2nd Respondent herein to award full marks for the disputed questions, select and appoint them as Sub-Inspectors of Police under Departmental candidates adopting 20% quota and fix appropriate place in the selection, and for a further direction to grant all consequential service and monetary benefits without considering the candidates, who obtained P.G.degree, without basic degree.

2. Today, when the matter is taken up for hearing, learned Special Government Pleader appearing for the Respondents submitted that, the issue in question is squarely covered by a Division Bench judgment dated 23.12.2010 passed by this Court in W.A.Nos.1719 to 1739 of 2010. For better appreciation, relevant portion of the said judgment is extracted hereunder:

"30. No doubt, the petitioners had legitimate expectation about the selection and they are also not responsible for the problem. However, the petitioner approached the Court only in 2009 for the first time. The Hon'ble Supreme Court in Shiba Shankar Mohapatra and Ors vs. State of Orissa and Ors. reported in AIR 2010 SC 706 held as follows:

"28. It is settled law that fence-sitters cannot be allowed to raise the dispute or challenge the validity of the order after its conclusion. No party can claim the relief as a matter of right as one of the grounds for refusing relief is that the person approaching the Court is guilty of delay and the latches. The

Court exercising public law jurisdiction does not encourage agitation of stale claims where the right of third parties crystallises in the interregnum.(vide Aflatoon and Ors. v. Lt.Governor, Delhi and Ors. MANU/SC/0437/1974: AIR 1974 SC 2077; State of Mysore v. V.K.Kangan and Ors. MANU/SC/0429/1975: AIR 197 SC 2190; Municipal Council, Ahmednagar and Anr. v. Shah Hyder Beig and Ors. MANU/SC/0022/2000; AIR 2000 SC 671; Inder Jit Gupta v. Union of India and Ors. MANU/SC/0447/2001; (2001) 6 SCC 637; Shiv Dass v. Union of India and Ors. MANU/SC/7032/2007; AIR 2007 SC 1330; Regional Manager, A.P.SRTC v. N.Satyanarayana and Ors. MANU/SC/8097/2007; (2008) 1 SCC 210 and City and Industrial Development Corporation v. Dosu Aardeshir Bhiwandiwalla and Ors. MANU/SC/81250/2008; (2009) 1 SCC 168)". (emphasis supplied).

Hence the petitioners who approached the court for the first time are definitely "fence sitters". In view of that the writ petitions filed by those petitioners who approached the court for the first time in 2009 are dismissed on the ground of delay."

3. In view of the settled legal position, Petitioners herein are not entitled to the relief sought for by them. Accordingly, these Writ Petitions are dismissed, on the ground of delay. No costs. Consequently, connected Miscellaneous Petitions are closed.

सत्यमेव जयते -s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

(jas/aeb)

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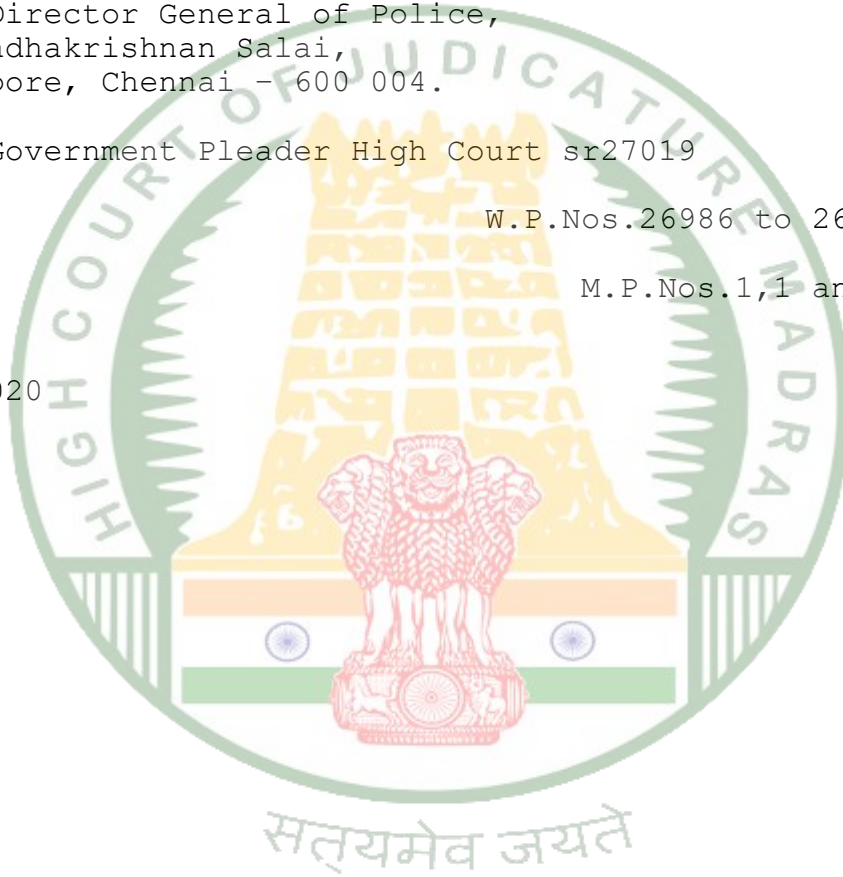
To:

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