

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 09.09.2020

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. NO. 19050 OF 2013

J.Rajkumar

.. Petitioner

- Vs -

1. State of Tamil Nadu rep. By
its Secretary to Government
(Home III Police Department)
Secretariat, Chennai - 5.
2. The Director General of Police
Tamil Nadu Uniform Services
Recruitment Board
P.T.Lee Chengalvarayar Nayakar Trust
2nd Floor No.807, Mount Road
Chennai - 2.
3. The Director General of Police
(Law & Order) Dr.Radhakrishnan Salai
Mylapore, Chennai - 4. .. Respondents

Writ petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of mandamus directing the respondents to appoint the petitioner as S.I. Of Police in 'Category 1' (Law & Order) with retrospective seniority together with all attendant benefits from the date of his appointment, i.e., 14.7.2002 in the same post.

For Petitioner : Mr. Ravi Ananthapadmanabhan

For Respondents: Mr. S.Thangavel, Spl. G.P.

ORDER

It is the case of the petitioner that his father, who was employed in the police department, died in harness on 4.12.96. The petitioner, therefore, made an application for compassionate appointment in the year 1997. Based on the said application the petitioner was appointed as Grade-II Police Constable. However, before his appointment, the petitioner had completed graduation and, therefore, he was fit for appointment as Sub Inspector of

Police. Similarly situated persons were appointed as Sub-Inspector on compassionate ground, while the petitioner was denied the said post. In order to avail the said benefit, the petitioner submitted a representation on 19.4.13. However, the same has not been considered and orders passed thereon, which prompted the petitioner to file the present writ petition.

2. Learned counsel appearing for the petitioner submits that though the application was made in the year 1997 for the post of Police Constable, when the petitioner had not completed his graduation, however, before his case was considered and he was appointed, the petitioner had completed graduation and was fit to be considered for the post of Sub Inspector. Persons, who were identically situated had been appointed on compassionate grounds in the post of Sub Inspector. The respondents, without considering the qualification of the petitioner as on the date of consideration of representation had appointed him only as Grade-II Police Constable, while other persons, though had applied for the post of Police Constable on compassionate grounds, however, their case were considered and they were appointed as Sub Inspector. Therefore, the petitioner gave a representation for giving him identical treatment, which has not been considered till date and, therefore, prays this Court to direct the respondents to consider the representation of the petitioner in the light of the qualification obtained by him and pass orders on the said representation within a time frame.

3. Per contra, learned Special Government Pleader appearing for the respondents submit that the petitioner had submitted his application for the post of Police Constable in the year 1997 and on the basis of the application and on the basis of the seniority, the petitioner was given compassionate appointment as Police Constable in the year 2002. It is the further submission of the learned Special Government Pleader that the qualification of graduation has only been obtained by the petitioner subsequent to his application and, hence, the subsequent qualification was not taken into consideration. Therefore, there is no arbitrariness or unreasonableness in the order of appointment of the petitioner.

4. This Court bestowed its best attention to the contentions of the learned counsel appearing on either side and perused the materials available on record.

5. The facts in the present case are not in dispute. Subsequent to the death of the petitioner's father, the petitioner had submitted his application for the post of Police Constable in the year 1997 and he was appointed as Police Constable in the year 2002. It is the case of the petitioner

that by the time he was appointed, the petitioner had completed his graduation and, therefore, he should have been considered for the post of Sub Inspector of Police. In this regard, the petitioner has brought to the notice of this Court that persons, who are identically placed like the petitioner and who had filed application for compassionate appointment as police constable, their cases were considered and such of those persons, who had completed graduation, on verification of their certificates prior to their appointment, they were considered and were appointed as Sub Inspector. The petitioner, being a person similarly situated as the persons, who were placed identically and who had been appointed as Sub Inspector, should also have been appointed as Sub Inspector.

6. It is to be pointed out here that the petitioner has been appointed as Police Constable based on his application. Therefore, the appointment of the petitioner as Police Constable cannot be faulted with. However, it is to be pointed out that persons who were similarly placed like that of the petitioner were considered and they were appointed as Sub Inspector of Police. Such being the case, the petitioner would also be entitled to have his case considered in accordance with law.

7. In such view of the matter, this Court, while disposes of this writ petition, without interfering with the appointment of the petitioner as Police Constable, however, makes it clear that this order shall not stand in the way of the respondents to consider the representation filed by the petitioner on its merits and in accordance with law and pass appropriate orders thereon within a period of three months from the date of receipt of a copy of this order. However, there shall be no order as to costs.

Sd/-

Assistant Registrar(CS)

//True copy//

Sub Assistant Registrar

GLN

To

1. The Secretary to Government
(Home III Police Department)
Govt. of Tamil Nadu
Secretariat, Chennai - 5.

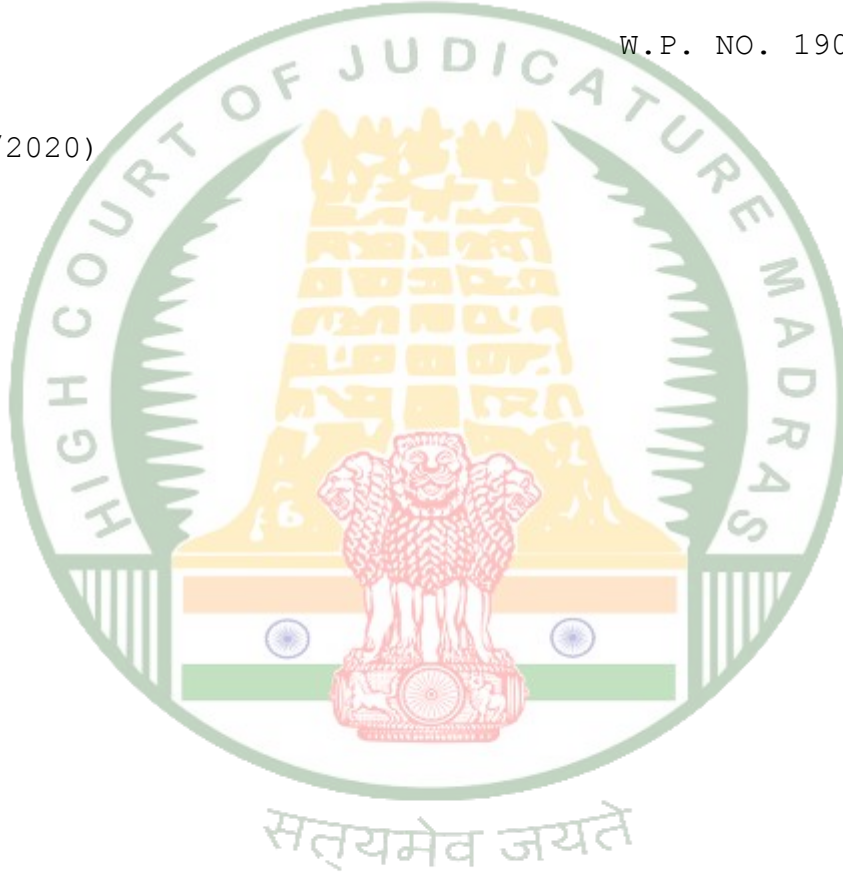
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(Law & Order) Dr.Radhakrishnan Salai
Mylapore, Chennai - 4.

+1cc to Mr.Ravi Ananthapadmanabhan, Advocate SR.No.29658

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SPD(CO)
GMY(19/10/2020)



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