

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 07.12.2020
CORAM
THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P.No.26365 of 2013
and
MP Nos.1 to 3 of 2013

- 1.P. Lalitha
2. S.Saraswathy
3. P.Vasanthikumari
4. S.Eswari
5. Panchavarnam
6. M.Xavier Francis Besky
7. S.Senthil
8. V.Kasiviswanathan
9. K.Paranthaman
10. Rajendhran
11. E.Gopi
12. V.Gnanasekaran
13. N.Kumar
14. S.Venkatachalapathy

..... Petitioners

Versus

1. State of Tamil Nadu
rep. By
Principal Secretary to Government
Home Department,
Secretariat,
Chennai - 600 009.

2. The Director General of Police,
Chennai - 600 004.

3. Tamil Nadu Public Service Commission,
rep. by its Secretary,
V.O.C. Nagar,
Park Town,
Chennai - 600 003.

..... Respondents

Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records on the file of the first respondent in connection with the Notification in G.O.Ms.No.550, Home (Police-2), dated 24.07.2013 and quash the same and direct the respondents to consider the petitioners for promotion to the next post on the basis of the judgment rendered by the Hon'ble

Division Bench of this Court in W.A. Nos.849 to 854 of 2010, dated 05.04.2013.

For Petitioners : Ms.M.Srividhya
For Respondents : Mr.S.Thangavel,
Special Government Pleader
for R1 & R2
Mr.Karthik Rajan for R3

ORDER

This writ petition has been filed to quash the Notification in G.O.Ms.No.550, Home (Police-2), dated 24.07.2013 issued by the first respondent and for a direction to the respondents to consider the petitioners for promotion to the next post on the basis of the judgment rendered by the Hon'ble Division Bench of this Court in W.A. Nos.849 to 854 of 2010, dated 05.04.2013.

2. The case of the petitioners is that they are personnel belonging to the Police department. It is averred in the affidavit that petitioners were appointed as Sub Inspectors by way of direct recruitment during the years 1981 and 1987. It is the further case of the petitioners that some of them are in the panel for next level of promotion as Additional Superintendent of Police and Deputy Superintendent of Police. Whiles, it is the grievance of petitioners that vacancies arisen for the post of Additional Superintendent of Police have to fulfilled as per regular seniority, based on Rules and as per the directions issued by the Hon'ble Division Bench of this Court in W.A. Nos.849 to 854 of 2010, dated 05.04.2013. Further, it is their claim that they are regular promotees and accelerated promotees cannot put forth a claim on par with them. To sort out such anomalies, the Government took a decision and brought an amendment to Rule 11 of Tamil Nadu Police Service and Subordinate Service Rules. Though such clause favours the accelerated promotees by creation of supernumerary posts, but suffers to provide substantive provision for them. The said clause has been inserted with retrospective effect from 19.03.1996. In view of the said amendment, the Government issued Notification in the Gazette dated 14.08.2013 notifying G.O. Ms.No.550 (Police-2), dated 24.07.2013. Aggrieved over the impugned G.O., the petitioners have filed this writ petition.

3. Learned counsel for the petitioners submit that the issuance of G.O.Ms.No.550, dated 24.07.2013 is in violation of the fundamental rights guaranteed to the petitioners by the Constitution. In spite of decision of the Hon'ble Division Bench of this Court in W.A. Nos.849 to 854 of 2010, the Government

amended Rule 11, inserting a Clause with retrospective effect from 19.03.1996 i.e., amendment dates back to seventeen years. Further, it is submitted that persons similarly placed like the petitioners filed a batch of writ petitions viz., W.P. Nos.24461 of 2013 & batch and drew the particular attention of this Court to para Nos.62 and 82 of the said judgment passed by this Court on 02.12.2020. Therefore, he prays that similar order may be passed by quashing the said G.O. Ms.No.550 and thereby allowing this writ petition in the light of the orders of this Court supra.

4.Mr.S.Thangavel, learned Special Government Pleader appearing for the respondents 1 & 2 has no objection to consider the claim of the petitioners herein based on the earlier order passed by this Court in W.P. No.24461 of 2013 & batch.

5.This Court carefully considered the submissions advanced by the learned counsel on either side and also perused the materials available on record, more especially, the decision of this Court in W.P. No.24461 of 2013, etc., Batch.

6. A perusal of records reveals that accelerated promotions were given to personnel in Police department and as such anomalies had arisen with regard to the preparation of panel pertaining to regular promotees. It is borne out by record that similar issue has been considered by this court in W.P.No.24461 of 2013 & batch, wherein the impugned G.O. No.550, dated 24.07.2013 had been quashed. The said position has not been disputed by the learned Special Government Pleader appearing for the respondents and in view of the admitted position, G.O. Ms.No.550, Home (Police-2), dated 24.07.2013, impugned herein, passed by the first respondent is liable to be quashed.

7. Accordingly, for the reason aforesaid, the impugned G.O. Ms. No.550, Home (Police-2) Department, dated 24.7.13 is hereby quashed and the present writ petition is allowed in terms of the order passed in W.P. No.24461 of 2015, etc., Batch. The respondents are directed to consider the case of the petitioners in terms with the order passed in W.P. No.24461 of 2015, etc., Batch. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1. The Principal Secretary to Government
State of Tamil Nadu
Home Department,
Secretariat,
Chennai - 600 009.

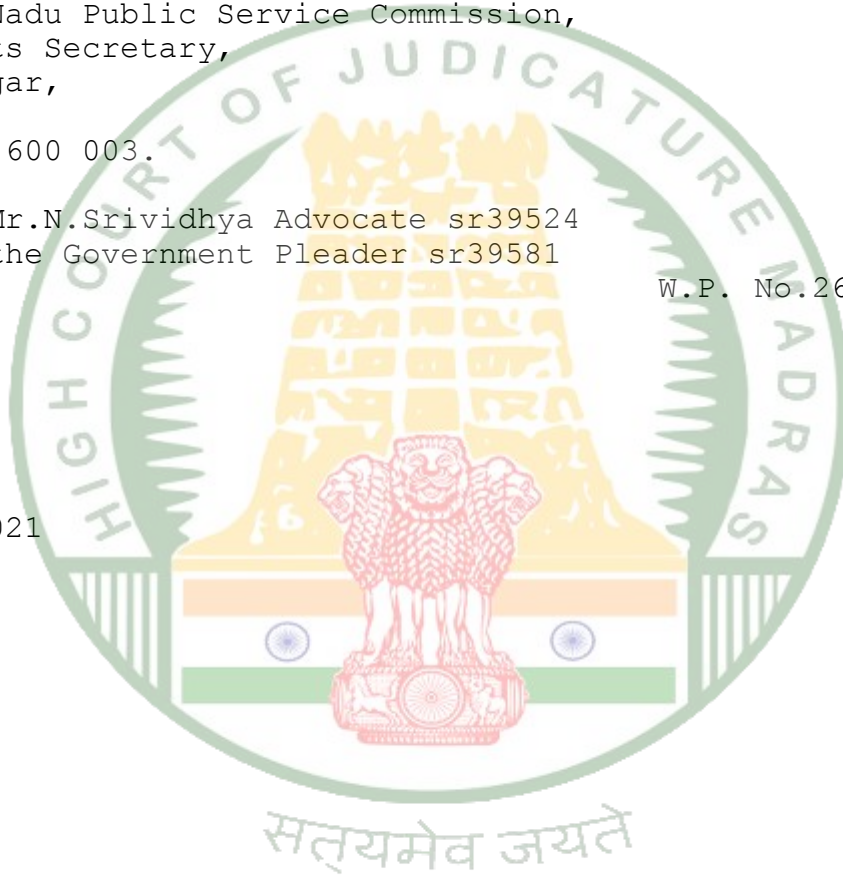
2. The Director General of Police,
Chennai - 600 004.

3. Tamil Nadu Public Service Commission,
rep. by its Secretary,
V.O.C. Nagar,
Park Town,
Chennai - 600 003.

+1 cc to Mr.N.Srividhya Advocate sr39524
+1 cc to the Government Pleader sr39581

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