

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 15.12.2020
CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. Nos.34420 & 34421 OF 2014

G.Ramesh ...Petitioner in WP.No.34420/2014
R.Ulaganathan ...Petitioner in WP.No.34421/2014

- Vs -

- 1.The Secretary (Home-II) Police Department,
Fort. St.George, Chennai 600 009.
- 2.The Director General of Police,
Dr.Radhakrishnan Salai,
Mylapore, Chennai 600 004.
- 3.The Chairman,
Tamil Nadu Uniformed Services
Recruitment Board,
Anna Salai, Chennai 600 002. ..Respondents in both WPs

Writ petitions filed under Article 226 of the Constitution of India praying this Court to issue a writ of mandamus, directing the respondents to pass orders on the nature of writ directing the respondents to pass orders on their representations dated 03.11.2014 & 30.10.2014 respectively made by the petitioners to select and appoint them as Sub-Inspector of Police, Category-I for the year 1997-98 based on the Judgment of the Hon'ble Supreme Court in Civil Appeal No.7667/2014 in SLP (C) No.21828/2006, etc., dated 7.8.2014 and grant such other further relief.

In both WPs.

For Petitioner : Mr.A.Eduvin Prabakar

For Respondents : Mr.A.N.Thambidurai, Spl.G.P.,

COMMON ORDER

As the relief sought for in both petitions are similar in nature, they are disposed of by this common order.

2.The petitioners in the above writ petition pray, to direct the respondents to pass orders on their representations dated 03.11.2014 & 30.10.2014 respectively, made by the petitioners to select and appoint him as Sub-Inspector of Police, Category-I for the year 1997-98 based on the Judgment of the Hon'ble Supreme Court in Civil Appeal No.7667/2014 in SLP (C) No.21828/2006, etc., dated 7.8.2014.

3. According to the petitioners, they are Science Graduates, belonging to Backward community and joined as Grade II police Constable in the Tamil Nadu Subordinate Service on 16.04.1997. After undergoing proper training, they were appointed in the Tamil Nadu Special Police I Battalion, Trichy, and Tamil Nadu Special Police VI Battalion, Madurai, and now they are working as Head Constable in Thanjavur and Namakkal Districts respectively.

3.1. It is the case of the petitioners that on 26.03.1998, the Tamil Nadu Uniformed Services Recruitment Board issued a notification inviting applications from the eligible candidates for appointment to the post of Sub Inspector of Police, Category-I by direct recruitment under 80% quota from open market for the year 1997-1998. The recruitment process entailed a physical efficiency test, followed by a written test, and an interview comprising and the marks provided to each of the tests are 45, 40 and 15 marks respectively. Since they were in possession of the required educational qualification and within the age limit, they applied for the above post under the open category by way of Direct Recruitment. They participated in the process of selection in Coimbatore range in all the 3 stages, and they secured a total aggregate of 63.06 and 64.4375 marks respectively. Both are belonging to the BC community and in Coimbatore Range the cut off marks prescribed for BC community is 69.31 marks. Therefore, when the results were published their name did not appear in the selected category. It is submitted that for the post of Sub Inspector of Police, the State is the unit for appointment, transfer and promotion but unfortunately, the recruitment of Sub Inspector of Police was made on Zone wise basis and, thereby, for each zone, separate cut off mark was prescribed for each category viz., OC, BC, MBC, SC & ST and the candidates who have reached the cut off mark alone were permitted to attend the viva voce examination. The cut off mark is respect of each zone for the written examination varied from zone to zone.

3.2. It is the averment made by the petitioner that they were not aware of the fact that the selection was made on zonal wise basis, the range wise selection was against the statutory rules and the cut off marks prescribed for the selection were not uniform in all ranges and that the candidate who obtained lesser cut off marks in certain ranges got selected, whereas, the candidates who obtained higher marks than the above said candidates in their respective ranges were not selected. Against the said lacunae, similarly situated persons like the petitioners, approached the Tamil Nadu Administrative Tribunal challenging the above selection on various grounds by filing original application in O.A.No.9825/1998 and on abolition of the Tribunal, all the original applications were transferred to the file of this Court and renumbered as W.P.No.17639 to 17660/2001 and this Court, allowed the petitions holding that the selection was invalid inasmuch as such range-wise selection was

impermissible under Special Rules governing Tamil Nadu Police Subordinate service. It is submitted that after the decision of this Court, special leave petitions were filed before the Hon'ble Supreme Court, on the ground of delay and latches and the Hon'ble Apex Court while admitting the SLPs, finally disposed of the Civil Appeal NO.7667/2014 etc., holding that delay and latches alone could not be a valid justification to deprive the meritorious candidates of their right to appointment. In such view of the above fact, the petitioners are entitled to be selected and appointed to service for appointment to the post of Sub Inspector is for the year 1997-98. Following the decision of the Hon'ble Apex Court, the petitioners made representations on 03.11.2014 & 30.10.2014 to the respondents, which has not evoked any response till date and, therefore, the present writ petitions have been filed.

4.Learned counsel appearing for the petitioners, while reiterating the contentions raised in the grounds filed in support of the affidavit, drew the attention of this Court to the decision in K.K.Senthil Kumar and others -Vs- State of Tamilnadu & others (Civil Appeal No.7667/2014, batch cases, (arising out of SLP(C) No.21828 of 2006) dated 30.10.7.8.2014), wherein, in identical circumstances, the Hon'ble Apex Court has considered the case of the petitioners therein and passed favourable orders. Accordingly he prays for allowing this writ petition.

5.Per contra, learned standing counsel appearing for the respondents filed a detailed counter, denying the averments made in the affidavit filed by the petitioners and referred paragraph No.19 of the counter and submitted that after the recruitment of Sub Inspector of Police 1997-98, recruitment process for the same posts was held during 2006 and 2010 and in view of the ratio laid down by the Hon'ble Supreme Court in SLP Nos.7320, 7321 of 2014 and SLP No.21828/2006, even if at all the petitioners are considered for being appointed as Sub Inspector of Police, they could be placed only in the bottom of the seniority list and would not be entitled to any service benefits.

6. This Court heard the submissions made by the learned counsel appearing on either side and also perused the materials available on record and the decision placed by them.

7. The facts in the present cases are not disputed. A perusal of the order passed in K.K.Senthil Kumar's case (supra) reveals that the issue therein is similar to the issue on hand. Though the respondents, have filed a detailed counter contending that the petitioners would not be entitled to the relief sought for as their case is hit by delay and latches, however it is an admitted fact that the petitioners representations are not disposed of till date. Further, in view of the fact that Senthil Kumar's case (supra) is in favour of the petitioners and the issue being similar and that the decision against the said order

before the Hon'ble Supreme Court is also in favour of the petitioners, this Court is inclined to issue a direction to the respondents to consider the representations dated 03.11.2014 & 30.10.2014 made by the respective petitioners for their selection and appointment as Sub-Inspector of Police, Category-I for the year 1997-98 based on the Judgment of the Hon'ble Supreme Court in Civil Appeal No.7667/2014 in SLP (C) No.21828/2006, etc., dated 7.8.2014 and pass appropriate orders thereon within a period of twelve weeks from the date of receipt of a copy of this order.

8. Accordingly, these writ petitions are disposed of with the aforesaid direction. There shall be no order as to costs.

Sd/-
Assistant Registrar (CO)

//True copy//

Sub Assistant Registrar

jrs

To

1. The Secretary (Home-II) Police Department,
Fort. St. George, Chennai 600 009.
2. The Director General of Police,
Dr. Radhakrishnan Salai,
Mylapore, Chennai 600 004.
3. The Chairman,
Tamil Nadu Uniformed Services
Recruitment Board, Anna Salai,
Chennai 600 002.

+1cc to Government Pleader SR.No.41422

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AJS (CO)
KKV/04/03/2021

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