



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.03.2020

CORAM:

WEB COPY THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P(MD)No.16514 of 2012

and

M.P(MD)No.1 of 2012

1.Subbiah (Died)
2.S.Ayyamperumal
3.S.Narayanan
4.S.Meenakshi Sundaram
5.Valli
6.Kamalam ... Petitioners
(Petitioners 2 to 6 were substituted as legal heirs
of the first petitioner vide Court order dated
03.03.2020) and made in WMP(MD)No.3761/2020 in WP(MD)No.16514/12)

vs.

1.The Principal Secretary to Government,
Home Department,
Secretariat,
Chennai-600 009.

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

3.The Inspector General of Railway Police,
Chennai-600 008.

4.The Superintendent of Police,
CCIW CID, Chennai-600 004.

5.The Superintendent of Railway Police,
Trichirappalli-620 001. ... Respondents

PRAYER:- Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the orders passed by the fifth respondent in para-6 of Order Endorsement C.No.A1/2364/2005 dated 06.03.2007 and Endorsement Na.Ka.No.A1/2821/12 dated 04.08.2012 and quash the same and consequently, direct the respondents to promote the petitioner as regular Sub-Inspector of Police with effect from 02.01.1985 and



For Petitioner : Mr.A.Thirumurthy
For Respondents : Mr.J.Gunaseelan Muthiah
Additional Government Pleader

WEB COPY

ORDER

This Writ Petition has been filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the orders passed by the fifth respondent in para-6 of Order Endorsement C.No.A1/2364/2005 dated 06.03.2007 and Endorsement Na.Ka.No.A1/2821/12 dated 04.08.2012 and quash the same and consequently, direct the respondents to promote the petitioner as regular Sub-Inspector of Police with effect from 02.01.1985 and grant all the service, monetary and pensionary benefits.

2. The case of the petitioner is that he was working as Grade-II Police Constable and joined police service in the year 1963 and he retired from service on 31.03.1999. On 06.01.1974 he was promoted as Grade-I Police Constable and on 09.01.1981 he was promoted as Head Constable in Railway Police Department, Trichy. On 17.12.1984 he was transferred to CCIW, CID and he was temporarily promoted as Sub-Inspector of Police and he joined duty on 02.01.1985. There are many persons, who were appointed as Sub-Inspector of Police as temporary basis, even the petitioner and the similarly placed persons had filed petition before the Tamil Nadu Administrative Tribunal in O.S.No.2176 of 1991. Wherein the said Tribunal has issued directions to regularize the services of the Sub-Inspectors, who have not appeared for 1985 promotion test but acting as temporary Sub-Inspector prior to 1985 promotion test and continued to officiate as Temporary Sub-Inspector even after 1985 selection list (i.e., called as "C" Test) irrespective whether they were eligible for consideration in 1985 selection.

3. The petitioner further submitted that on 28.04.1993 the DIG of Police, Chengalpet Range issued orders promoting 18 Temporary Sub-Inspectors who have not attended 1985 promotion test but acting as Temporary Sub-Inspectors prior to 1985 promotion list and continuously officiated Sub-Inspectors on the basis of the above said orders passed by the Hon'ble Tribunal (TAT). He has been promoted as Sub-Inspector from 1985 but petitioner has been left out. On 10.06.1993 the petitioner submitted a representation to include his name in the above order dated 28.04.1993 issued by the DIG of Police Chengalpet and to give regular promotion as Sub-Inspector on par with others listed in para 7 of the said order. On 30.03.1995 the fifth respondent Superintendent of Railway Police, Trichy directed him to attend before promotion Board to consider him for promotion. The petitioner had filed a O.A.No.2311 of 1995 to



include his name in "C" list and promote him on par with the other similarly placed persons. The Tribunal on 13.11.1995 has passed the following Common Order in O.A.No.2311/1995 along with O.A.No.1565 of 1995:-

"63..... By implementing the order passed in O.A.No.2176/1991 and other cases, about 1000 Head Constables were promoted as Sub-Inspectors. While that be so, if some of them who are entitled to the benefits of the order in these cases are left out, it would amount to unfair discrimination. In case these applicants are entitled to the benefits of the order in O.A.No.2176/1991 and batch cases, they shall be given those benefits and they need not again undergo the tests. These applicants are at liberty to make representations to the appropriate authorities with regard to their claim for getting the benefits of the orders passed in O.A.No.2176/91 and batch cases and if they are so entitled, they should be given benefits of the same."

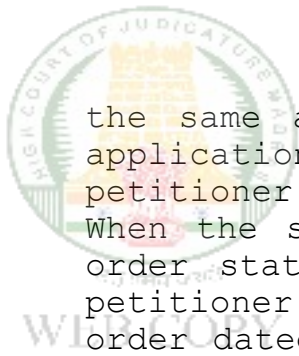
4. Accordingly, the petitioner has submitted a representation on 22.12.1995 to the second respondent to include his name in 1985 "C" lists. The fifth respondent has passed an order dated 10.07.2000 and promoting the petitioner as Regular Sub-Inspector of Police i.e., w.e.f., 13.11.1995 instead of 1985. Aggrieved by the same, the petitioner submitted a representation on various dates. On 06.03.2007 the fifth respondent has issued an order stating that the petitioner is coming under the category "C" above and the said order is extracted hereunder:-

"4.Your are coming under the category "C" above. As instructed in Chief Office Memo C.No.8128/NGB.I(2)/1992 dated 30.03.1993 your name had to be considered by screening by the Chengai Range promotion Board. But your name was not considered in the Screening Board as no recommendation roll for you was received from Superintendent of Police, CCIW CID, Chennai."

5. xxxxxxxxx

6. Your are informed that pursuant to the common judgment of Hon'ble Tamil Nadu Administrative Tribunal, Chennai dated 13.11.1995 in O.A.No.1965/1995 (Batch) and as per Chief Office Memorandum No.554/NGB.1(2)/1995 dated 07.03.1996, your name was considered and you were promoted as S.I.of Police by regularizing your services in the category of S.I.of Police w.e.f.13.11.1995 and the benefit arising out of the case had been given to you. Hence, there are no grounds to modify the orders already issued and to extend any other benefits now as requested in your petition cited".

5. The petitioner was denied the promotion and they rejected on the ground that there was no ground raised to modify the order already issued. Aggrieved by the said order, the petitioner sent a review application requesting the respondents 1 to 3 to review the order dated 06.03.2007 passed by the fifth respondent and to modify



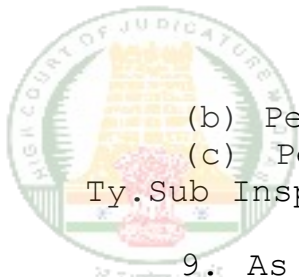
the same and to issue revised orders. Instead of reviewing the application, the fifth respondent again sent a letter to the petitioner asking him to send a copy of the order dated 06.03.2007. When the same was submitted, the fifth respondent again passed an order stating that detailed order has already been issued to the petitioner. While the respondents 1 to 3 requested to review the order dated 06.03.2007 passed by the fifth respondent, the same was not considered and he has simply sent a letter stating that already orders has been issued. Again, the petitioner has approached this Court for considering his review application by the respondents 1 to 3 and submitted that the fifth respondent himself rejected the review application is wrong and beyond his jurisdiction power and is illegal.

6. He further submitted that the petitioner has been promoted as Sub-Inspector of Police on 02.01.1985 and continued to even after 1985 selection test. The petitioner is covered un "C" list of the order dated 07.08.1991. He should be promoted at the earlier point of time itself. The petitioner is entitled to the benefit of the orders of similarly placed persons and his juniors being promoted long back. Hence, the petitioner filed present writ petition seeking suitable orders to be passed by the respondents 1 to 3.

7. The fifth respondent has filed a counter affidavit and denying all the averments and stated that the petitioner was informed that he was considered for promotion pursuant to the order issued by the Tamil Nadu Administrative Tribunal. As per the above directions, the petitioner submitted a petition on 30.12.2004. After perusal of the connected records necessary endorsement in C.No.A1/2364/2005, dated 06.03.2007 was sent to the petitioner by the Superintendent of Police, Railways, Trichy i.e., fifth respondent. In the endorsement, the petitioner was informed that he was considered for promotion as Sub-Inspector w.e.f.13.11.1995 pursuant to the order issued by the Hon'ble Tamil Nadu Administrative Tribunal No.1565/1995. Based on the representation of the petitioner, a proposal furnishing service particulars etc., was sent to the Chief Office through Inspector General of Police, Railways, Chennai vide letter C.No.A1/1826/2003, dated 26.09.2005. His representation was considered by the Director General of Police, Chennai in detail.

8. It is informed that pursuant to the directions of the Hon'ble Tamil Nadu Administrative Tribunal dated 07.08.1992 in O.A.No.2176 of 1991 instructions were issued in Chief Office memorandum in No.8128/NGB.I (2)/1992, dated 30.03.1993 directing the Range Deputy Inspectors General of Police/Commissioners of Police to convene Range Promotion Boards by screening method for promotion as Temporary Sub-Inspector of Police who had attended the 1985 Board and secured marks below the cut off in the following categories:

(a) Persons attended 1985 Board and secured more than 50% of



(b) Persons attended 1985 Board and secured below 50% of Marks.

(c) Persons who have not attended 1985 Board but acting as Ty.Sub Inspector prior to 1985 and continuing till dated.

9. As instructed in Chief Office memo C.No.8128/NGB.I(2)/1992, dated 30.03.1993, the petitioner's name was not considered in the screening Board as no recommendation roll for him was received from Superintendent of Police, CCIW CID, Chennai. Pursuant to the common judgment of Hon'ble TAT, Chennai dated 13.11.1995 in O.A.No.1565 of 1995 the petitioner's name was considered and promoted as Sub-Inspector of Police by regularizing his service in the category of Sub-Inspector of Police, with effect from 13.11.1995.

10. As per the guidelines of promotion Board the qualifications envisaged in the Special Rules for Tamil Nadu Police Subordinate service for promotion that they should have completed a total service of 7 years and not less than 4 years as Head Constable. The petitioner was promoted as Head Constable on 18.01.1982. Hence, the petitioner's name was not considered in the year 1985 promotion Board as he had not completed the minimum service i.e., four years of service in the rank of Head Constable. It is also further submitted that as instructed in Chief Office, dated 30.03.1993 the petitioner's name was not considered in the screening Board as no recommendation was received. As a result, his name was not considered.

11. Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents and perused the materials available on record.

12. It is seen from the records that the petitioner was promoted to the post of Sub-Inspector of Police on 02.01.1985 and orders being passed on 17.12.1984. The petitioner's grievance is that his review application sent to the respondents 1 to 3 was not considered and no orders has been passed. It is clearly seen that the fifth respondent has only sent a letter to the petitioner on 12.06.2012 to send a copy of the order dated 06.03.2007 was considered and passed orders and not the letter sent by the petitioner on 09.02.2012.

13. Considering the above facts, this Court is of the view that the petitioner's review application submitted on 09.02.2012 ought to have been considered by the respondents and passed orders on merits.

14. The learned Additional Government Pleader appearing for the respondents submitted that no review application has been found in the file and if any review application is pending, it will be considered and will pass orders within a period of two weeks.

15. In view of the above, the petitioner is directed to submit application before the respondents on or before



30.03.2020 and the respondents 1 to 3 are directed to consider the review application submitted by the petitioner and pass orders on merits and in accordance with law on or before 31.04.2020 after affording an opportunity to the petitioner.

16. With the above direction, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

To

- 1.The Principal Secretary to Government,
Home Department,
Secretariat,
Chennai-600 009.
- 2.The Director General of Police,
Tamil Nadu State,
Chennai-600 004.
- 3.The Inspector General of Railway Police,
Chennai-600 008.
- 4.The Superintendent of Police,
CCIW CID, Chennai-600 004.
- 5.The Superintendent of Railway Police,
Trichirappalli-620 001.

+1 CC to M/s.A.THIRUMURTHY, Advocate (SR-11986[F] dated 17/03/2020)

+1 CC to M/s.SPL.GP (SR-11999[F] dated 17/03/2020)

W.P (MD) No.16514 of 2012
16.03.2020

SDS (06.05.2020) 6P-8C