

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date : 22.02.2021

CORAM:

THE HON'BLE MR. JUSTICE R.SURESH KUMAR

W.P.No.16750 of 2011
and
W.P.No.22335 of 2011

WP.No.16750 of 2011:

S.Kasi Viswanathan

... Petitioner

Vs.

1.The State of Tamil Nadu
rep. by Secretary to Govt.
Home (Police) Dept.,
Fort St. George, Chennai - 9.

2.The Director General of Police,
Kamarajar Salai, Chennai - 4.

3.R.Viswanathan
4.M.Annadurai
5.S.Pattabhi
6.T.K.Rajasekaran
7.Ara.Arularasu
8.S.Vimala
9.J.Mutharasu

... Respondents

[R3 to R9 impleaded as per order dt. 21.11.2011
in M.P.Nos.2 & 3 of 2011]

Prayer: Petition filed under Article 226 of Constitution of India praying for issuance of a Writ of Mandamus directing the respondents to restore the original seniority of the petitioner on the basis of the ranking given by Police Training College in respect of the petitioner based on the judgment of the Division Bench of this Court in WP.No.38792 of & 39793 of 2003 dated 10.09.2007 and grant further promotion as Superintendent of Police.

For Petitioner : Mr.M.Alagu Gowtham
For Mr.M.Muthappan

For Respondents 1 & 2 : Mr.K.Magesh
Special Government Pleader

For Respondents 3 to 9 : Mr.S.Ramesh

W.P.No.22335 of 2011:

A.Mohamed Iqbal

... Petitioner

Vs.

1.The Secretary to Govt.
Home (Police II) Dept.
Fort St. George, Chennai - 9.

2.The Director General of Police
Dr Radhakrishnan Salai,
Mylapore, Chennai - 4.

... Respondents

Prayer: Petition filed under Article 226 of Constitution of India praying for issuance of a Writ of Mandamus directing the respondents to restore the original seniority of the petitioner on the basis of the ranking given in the Police Training College in S.L.No.29 based on the judgment of the Division Bench of this Court in W.P.No.38792 of & 39793 of 2003 dated 10.09.2007 and grant notional promotion as Additional Superintendent of Police by including his name in the panel of the Deputy Superintendent of Police for promotion as Additional Superintendent of Police for the year 2007-2008 with all consequential service and monetary benefits.

For Petitioner : Mr.M.Alagu Gowtham
For Mr.M.Muthappan

For Respondents : Mr.K.Magesh
Special Government Pleader

COMMON ORDER

Since the issue raised in both the writ petitions are common, with the consent of the learned counsel appearing for both sides, both the writ petitions were heard together and are disposed of by this common order.

2.Both these petitioners were selected and appointed as Inspector of Police in the year 1976 and 1979 respectively after taking training in Police Training College. Based on the marks

they obtained, the ranking were given, accordingly, they were given posting orders.

3. When they subsequently were working, there has been a dispute with regard to the fixing of seniority of these petitioners and similarly placed persons i.e., the batchmates of the petitioners who are selected as such in the year 1976 and 1979. Therefore, some of the batchmates of the petitioners seems to have filed writ petitions before this Court, where, ultimately a Division Bench of this Court passed an order on 10.09.2007 in W.P.Nos.38792 & 38793 of 2003, where, the import of the order of this Court was that, during the relevant point of time, the rule was that the ranking given by the Police Training College after completing the training should be reckoned as the date for the purpose of fixing their seniority in the Sub Inspector category and accordingly, their seniority should be reckoned and based on which whenever they become eligible for consideration for next category, their candidature should be considered.

4. Aggrieved over the said import of the orders passed by this Court, as referred to above, the State filed Special Leave Petition before the Hon'ble Supreme Court in S.L.P.(C)No(s). 1984-1985/2008, the said S.L.P. was pending for some years and ultimately, by order dated 27.02.2017, the Hon'ble Supreme Court has passed the following order:

"Heard learned counsel for the petitioners.

Delay condoned.

We do not see any ground to interfere with the impugned order of the High Court.

The special leave petitions are, accordingly, dismissed. However, the question of law is left open.

Pending applications are also stand disposed of." and disposed the Special Leave Petition.

5. Only with that background of facts and legal aspects, the present writ petitions have been filed by these two petitioners, who were also similarly placed, seeking promotional and other service benefits by considering their seniority on the basis of the ranking given by the Police Training College where they successfully completed the training. Since the said request having been not considered, they filed the present writ petitions with the aforesaid prayer.

6. Heard Mr.M.Alagu Goutham, learned counsel appearing for the petitioner, who after having addressed on the aforesaid facts, would submit that, the petitioners also, since similarly placed, are entitled to get the seniority, therefore, such kind of benefits to fix their seniority are to be extended to them.

7.The learned counsel appearing for the private respondents, who have been subsequently impleaded, would submit that, these people were selected directly by the TNPSC by way of Group I recruitment and therefore, in respect of these person's seniority is concerned, since they are directly appointed Deputy Superintendent of Police, therefore, while considering the interse seniority among the direct recruited Deputy Superintendent of Police and the promoted Deputy Superintendent of Police, both cannot be equated as claimed by the petitioners herein or their batchmates. That issue is no more an issue now for deciding any pensionary benefit to be conferred on these petitioners who have already retired from service. Therefore, the learned counsel appearing for the private respondents would submit that, their seniority would be nothing to do with the claim now made by the petitioners. Therefore, it can be independently decided, if the respondents State Government desires to take it independently and decide it on merits.

8.Mr.K.Magesh, learned Special Government Pleader appearing for the State and official respondents would submit that, though the State preferred SLP against the view taken by this Court insofar as reckoning the seniority on the Sub Inspectors of Police, who were appointed in 1976 and 1979 as to whether the seniority based on the ranking awarded by the Police Training College after their successful completion of training to be taken into account, the Hon'ble Supreme Court has dismissed the said SLP leaving the question of law open, which means, that the order passed by this Court insofar as the seniority issue of the Sub Inspector of Police in 1976 and 1979 batchmates are concerned, what is the view expressed by this Court has been confirmed now for the time being atleast by disposal of the said SLP.

9.However, the learned Special Government Pleader would submit that, in view of the said dismissal of SLP, the benefits sought to be conferred on those cases were decided by this Court, accordingly, their cases has been considered and the benefit had been extended. However, not as a matter of right, every such incumbent like the petitioners cannot seek indulgence of the State Government to extend the said benefit, unless the issue is decided by one way or other, since the question of law is kept open by the orders of the Hon'ble Supreme Court.

10.I have heard the learned counsel appearing for the parties and have perused the materials placed before this Court.

11.The plea raised by the petitioner is so simple that, the benefit conferred on their batchmates who were also similarly placed as they were selected in 1976 and 1979 after having successfully completed the training in Police Training College and accordingly, only the seniority interse were decided based

on which service benefits like promotions etc. were conferred on them. When such a plea raised by the batchmates of the petitioners where atleast some of them, approached this Court by filing writ petitions, this Court has decided the said issue in favour of them, as against which, the State Government filed unsuccessfully the SLP before the Hon'ble Supreme Court as the same has been concluded by the orders of the Hon'ble Supreme Court dated 27.02.2017.

12. Though the question of law has been left open, till that question of law is decided by the law Courts one way or other, the prevailing situation is that, insofar as the year 1976 and 1979 batch of Sub Inspectors are concerned, what has already been confirmed in the aforesaid SLPs, that shall be taken into account for the purpose of deciding the plea raised by the petitioners in these writ petitions.

13. In that view of the matter, this Court is inclined to dispose of these writ petitions with the following orders:-

(i) That there shall be a direction to the respondents to decide the plea raised by the petitioners by way of representation dated 20.12.2010 and 09.11.2009 and decide the same on merits and in accordance with law. While deciding the same, the orders passed by this Court dated 10.11.2010 in W.P.No.25373 of 2010 shall be taken into account and accordingly, the needful shall be done by the respondents by passing final order on the representations of the petitioners within a period of three months from the date of receipt of a copy of this order.

(ii) The petitioners shall send a copy of this order along with the copy of the said representations to the respondents within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same, the needful as indicated above shall be undertaken by the respondents within the time, as indicated above.

14. With the above directions, these Writ Petitions are disposed of. However, there shall be no order as to costs.

Sd/-

Assistant Registrar (CS-V)

//True copy//

Sub Assistant Registrar

Sgl

To

1.The Secretary to Govt.
State of Tamil Nadu
Home (Police) Dept.,
Fort St. George, Chennai - 9.

2.The Director General of Police,
Kamarajar Salai, Chennai - 4.

3.The Director General of Police
Dr Radhakrishnan Salai,
Mylapore, Chennai - 4.

+2cc to Mr.M.Muthappan, Advocate SR.No.10843

+1cc to Government Pleader SR.No.10737

W.P.No.16750 of 2011 and
W.P.No.22335 of 2011

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GMY(08/07/2021)



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