

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 10.02.2021

CORAM

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

W.P. No.2819 of 2021

S.Sai Kumar

...Petitioner

-vs-

1.The Director General of police,
Tamil Nadu Police Department,
Mylapore, Chennai 600 004.

2.The Commissioner of Police,
E.V.K.Sampath Road,
Vepery, Periamet,
Chennai.

3.The Superintendent of Police,
District Police Office,
Dharmapuri District.

...Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of mandamus, directing the 1st respondent to fix the petitioner's seniority on par with his batch mates recruited in the year 2010-2011 based on his representation dated 04.01.2021 made through courier service and in the light of the proceedings passed by 1st respondent in C.NO.3362/Rect 1(2)/2016, dated 11.11.2016 within the time limit that may be stipulated by this Court.

For Petitioner : M/S.Kavya

for Mr.G.Thalaimutharasu

For Respondents : Mr.R.V.Selvakumar, A.G.P.

ORDER

This writ petition has been filed by the petitioner, to direct the 1st respondent to fix the petitioner's seniority on par with his batch mates recruited in the year 2010-2011 based on his representation dated 04.01.2021 made through courier service and in the light of the proceedings passed by 1st respondent in C.NO.3362/Rect 1(2)/2016, dated 11.11.2016 within the time limit that may be stipulated by this Court.

2. It is the case of the petitioner that though he was selected for appointment to the post of Grade II Police Constable in the year 2010 itself, he was not allowed to go training for the period of 8 months only in the year 2018, on account of the fact that he was facing criminal proceedings at the relevant point of time and after getting the order of Hon'ble Acquittal, he was allowed to work. It is the further case of the petitioner that he made a representation on 04.01.2020 to the 1st and 2nd respondents to consider inclusion of his name as one of the appointees in the year 2010 and grant relief.

3. Mr.P.V.Selvakumar, learned Additional Government Pleader appearing for the respondents submitted that when a criminal case is pending, the question of allowing the petitioner to join work does not arise and had the petitioner been in service, he would have been suspended, on the ground of pendency of criminal case. He also co contended that since the petitioner had joined service in the year 2018, he cannot claim benefits, as if he joined the service in the year 2010, by way of disposal of the representation.

4. Heard the submissions made by the learned counsel appearing on either side and perused the materials available on record.

5. Admittedly, he was found eligible to the post of Grade II Police Constable in the year 2010 itself and due to his involvement in the criminal case, his training period was postponed. It is not in dispute that he was acquitted from the criminal case honorably and was sent for training for the period of 8 months. Learned counsel for the petitioner drew the attention of this Court to the order passed by this Court in W.P.(MD)No.25132 of 2018 dated 03.01.2019, wherein it was clearly held that delay in appointment cannot be attributed to the petitioner, as it occurred on account of the wrong rejection of the candidature by the appointing authority.

6. In the present case on hand, the petitioner, though selected to the post, was not given appointment, on the ground of pendency of criminal case. Once the criminal case ended in acquittal and the respondents also appointed the petitioner in service wayback in the year 2018, naturally the benefits of his service right from the year 2010 need to be extended to the petitioner, which cannot be deprived at any cost.

7. Hence I am of the view that the case of the petitioner needs to be considered in the light of the judgment made in W.P. (MD) No.25132 of 2018 dated 03.01.2019. Accordingly, the 1st respondent is directed to consider the case of the petitioner in

terms of the aforesaid judgment, if applicable, within a period of sixty days from the date of receipt of copy of this order, after affording an opportunity of hearing to the petitioner either physically or virtually and the benefits, if any, shall be extended to him, by taking into account the date of entry into service as 2010, instead of 2018.

8. With the above direction this Writ Petition is ordered.
No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

jrs/ar

To:

1.The Director General of police,
Tamil Nadu Police Department,
Mylapore, Chennai 600 004.

2.The Commissioner of Police,
E.V.K.Sampath Road,
Vepery, Periamet,
Chennai.

3.The Superintendent of Police,
District Police Office,
Dharmapuri District.

+lcc to Mr.Thalai Mutharasu, Advocate, S.R.No.7572

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MG(CO)
KKV/16/03/2021

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