



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.12.2021

CORAM:

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

W.P.NO.29603 OF 2011

S.Balasubramanian

...Petitioner

vs.

1.Union of India,
Ministry of Railways,
Rep. By Director General, RPF
Rail Bhavan, New Delhi.

2.The Chief Security Commissioner,
Railway Protection Force,
Moor Market Complex, 6th Floor,
Southern Railway, Chennai-3.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the respondents to promote the petitioner to the post of Assistant Sub Inspector under the Schedule Tribe Vacancy arising out of the year 2001 and fix the seniority of the petitioner in the post of Assistant Sub Inspector of Police by placing him below the candidates promoted to the post of Assistant Sub Inspector pursuant to the Limited Department Competition Examination conducted between 24.07.2001 to 26.07.2001.

For Petitioner : Mr.N.R.R.Arun Natarajan
For Respondents : Mr.M.Vijay Anand

O R D E R

The prayer in this writ petition is for a Mandamus directing the respondents to promote the petitioner to the post of Assistant Sub Inspector under the Schedule Tribe Vacancy arising out of the year 2001 and fix the seniority of the petitioner in the post of Assistant Sub Inspector of Police by placing him below the candidates promoted to the post of Assistant Sub Inspector pursuant to the Limited Department Competition Examination conducted between 24.07.2001 to 26.07.2001.

2. The case of the petitioner is that he hails from Scheduled Tribe Community and joined the Railway Protection



Force as a Constable in the year 1989 and now working as Assistant Sub Inspector, Railway Protection Force. During the year 2001, 26 candidates were shortlisted in the panel prepared by the respondents for promotion to the post of Assistant Sub Inspector and pursuant to the notification, the petitioner applied to the said post and one of the condition is that the petitioner has to pass Limited Department Competition [LDC] and the petitioner has cleared the same and his name has been included in the shortlist prepared by the respondents. Subsequently, the aforesaid shortlist prepared was cancelled by the respondents and it was put to challenge by one of the shortlisted candidate by filing a Writ Petition in O.P.No.12361 of 2002 before the High Court of Kerala and vide order dated 06.12.2005, the Kerala High Court has directed the respondents to make appointments from the list already published pursuant to the earlier selection proceedings and the said decision was also confirmed by the Division Bench of Kerala High Court in W.A.No.346 of 2006 dated 20.02.2006. Pursuant to the said decision, the second respondent, vide O.M. Dated 06.05.2006 issued the list of Head Constables/ Constables for promotion to the post of Assistant Sub Inspector, prepared by the Selection Committee in 2001 pursuant to the selection process held on 24.07.2001 to 26.07.2001.

3. It is the grievance of the petitioner that similarly placed persons got promoted as Assistant Sub-Inspector of Police, but the name of the petitioner was not included in the selection list and the petitioner, being the only Scheduled Tribe Candidate, is eligible for promotion to the post of Assistant Sub Inspector, pursuant to the selection process held on 24.07.2001 to 26.07.2001. However, the petitioner participated in the subsequent LDC held during 23.07.2006 to 26.07.2006 and got promoted as Assistant Sub Inspector.

4. The learned counsel for the petitioner would submit that only after coming to know about the decision of the Single Judge of Kerala High Court, as confirmed by the Division Bench of Kerala High Court, granting promotion to similarly placed persons in the year 2001 itself, the petitioner has filed the present writ petition with the aforesaid prayer.

5. The learned Standing Counsel for the respondents has drawn the attention of this Court to the counter affidavit filed by the second respondent wherein it has been stated that the petitioner was not among the 23 candidates shortlisted, including one ST candidate empanelled against notified 23 vacancies and the petitioner was not recommended by the Selection Committee as per the notification, as he did not secure the required marks to be considered either under Unreserved Category or under Scheduled Tribe Category and therefore, prays for dismissal of this writ petition.



6. This Court has considered the submissions made and also perused the materials placed before it.

7. The fact remains that the petitioner has not challenged the earlier cancellation of the selection list prepared at the relevant point of time i.e., during the year 2001 and only after coming to know that similarly placed persons have got promotion as Assistant Sub Inspector of Police in the year 2001 itself, by virtue of the order passed by the Single Judge of Kerala High Court in O.P.No.12361 of 2002 dated 06.12.2005, as confirmed by the Division Bench of Kerala High Court in W.A.No.346 of 2006 dated 20.02.2006, the petitioner has filed the present writ petition only in the year 2011 and therefore, there is delay on the part of the petitioner in approaching this Court and on that ground, this writ petition is liable to be dismissed. Further the prayer in the writ petition is for a Mandamus to consider his promotion to the post of Assistant Sub-Inspector of Police with retrospective effect from 2001, by placing his seniority below the persons who have already been promoted in the said year and however, the said relief cannot be granted, since the petitioner has approached this Court with delay. This Court finds no merit in this writ petition.

8. Accordingly, this Writ Petition stands dismissed. No costs.

Sd/-
Assistant Registrar(CS-VIII)

// True Copy //

Sub Assistant Registrar

Jvm

To

1.The Director General, RPF,
Union of India,
Ministry of Railways,
Rail Bhavan, New Delhi.

2.The Chief Security Commissioner,
Railway Protection Force,
Moor Market Complex, 6th Floor,
Southern Railway, Chennai-3.

+1cc to Mr.M.Vijay Anand, Advocate Sr.No.67121

W.P.No.29603 of 2011

PL(CO)
RVM(28/12/2021)