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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE S. VAIDYANATHAN
AND
THE HONOURABLE MR.JUSTICE A.A. NAKKIRAN

W.A.No. 1573 of 2014
and
C.M.P.No.18217 of 2016 & M.P.No.1 of 2014

The Commissioner of Police,
Greater Chennai Police,
Egmore,
Chennai-600008

...Appellant/Respondent

Vs.

S.Suresh Verma

...Respondent/Petitioner

Prayer: Writ Appeal filed under Clause 15 of Letter Patent Act, to set aside the order dated 18.12.2013 passed in W.P.No.33761 of 2013 and allow the Writ Appeal.

Prayer in W.P.No.33761 of 2013: Petition filed under Article 226 of the constitution of India seeking issuance of writ of certiorarified mandamus to call for the records pertaining to the order passed in proceeding No.RC No. Estt. III (1) 398/96011/2013 dt 31.10.2013 on the file of the respondent and quash the same and direct the respondent to grant upgradation as Special Sub Inspector of Police from the year 2011.

For Appellant : Mr.K.V. SanjeevKumar
Government Counsel.

For Respondent : Mr.S. Soundararajan

J U D G M E N T

(Judgment of the Court was delivered by S.VAIDYANATHAN,J)

This Writ Appeal has been preferred against the order of the learned Single Judge dated 18.12.2013, passed in W.P.No.33761 of 2013, in allowing the Writ Petition and also by directing the Appellant to grant upgradation to the Writ Petitioner as Special Sub Inspector of Police from the year 2011.

2. According to the learned counsel for the Appellant, the learned Single Judge referred to the previous punishments that



were imposed on the Writ Petitioner, and relied upon the judgment of the Madurai Bench of this Court in W.A.(MD) Nos.1506 of 2011 etc., batch cases, wherein after referring to Rule 25 (b) of the Special Rules for Tamil Nadu Subordinate Service Rules, it was held that a police person transferred from one district/wing to another district/wing will not lose his seniority. Despite such reference and reliance in the orders, the learned Single Judge has granted the relief to the Writ Petitioner, which is not proper as the Petitioners therein stand in a different footing than that of the Writ Petitioner. It was further submitted by the learned Government Counsel that in a similar issue, SLP is pending, which is evident from the Judgment passed in W.A.No.2891 of 2019 dated 04.09.2019.

3. The learned counsel appearing for the Respondent submitted that the learned Single Judge, by referring to Rule 25 (b) of the Special Rules for Tamil Nadu Subordinate Service Rules, has rightly granted relief as stated supra. He further submitted that the stand taken by the Appellant herein that petitioners in W.P.No.7578 of 2013 are not similarly placed to that of Appellants in W.A.No.1506 of 2011, shall not apply to the present case on hand, in view of the Para 7 of the the Judgment dated 04.09.2019 made in W.A.No.2891 of 2019.

4. Heard both sides. Perused the records.

5. A perusal of the order passed by the learned Single Judge would go to show that the learned Single Judge, by relying upon the Judgment of the Madurai Bench of this Court in W.A.(MD) Nos.1506 of 2011 etc., batch cases, has granted the aforesaid relief to the Writ Petitioner and in the said order, there was a reference to Rule 25(b). In this context, it is useful to extract the Rule 25 (b) of the Special Rules for Tamil Nadu Subordinate Service Rules as under:

"Rule 25 (b):The transfer of a person from one class or category of the service to another class or category carrying the same pay or scale of pay shall not be treated as first appointment to the latter for purposes of seniority and the seniority of a person so transferred, shall be determined with reference to the rank in the class or category from which he was transferred. Where any difficulty or doubt arises in applying this sub rule seniority shall be determined by the appointing authority.

6. In the Judgment relied upon by the learned Government



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counsel for the Appellant in W.A.No.2891 of 2019 dated 04.09.2019, it has been held as under:

"5. Therefore, by consent of learned counsel appearing for both parties, instant writ appeal is taken up for final disposal.

6.As similar batch of writ appeals viz., W.A.No.2494 of 2013 etc. batch dated 29.08.2019, has been allowed in favour of the State, we are of the view that the said decision squarely applies to the instant writ appeal. Following the same, WA.No.2891 of 2019, is allowed. Order made in W.P.No.7578 of 2013 vide common order in W.P.Nos. 18554 of 2012 etc batch of writ petitions, dated 31.10.2014, is set aside. No costs. Consequently, the connected Civil Miscellaneous Petition is closed.

7. However, bringing to the notice of this Hon'ble Court, Mr.P.S.Sivashanmugasundaram, learned Special Government Pleader submitted that earlier Review Application was filed before the Madurai Bench of this Court, to review the decision rendered by this Court in writ appeals and few of them, affected by the decision made in the review petition have filed Special Leave (Civil) Nos.24326-24335 of 2018 before the Hon'ble Supreme Court and that in the said petitions, notice have been ordered.

8.Learned Special Government Pleader further submitted that counter affidavit, has been filed in the above SLP (C) and Hon'ble Supreme Court has also directed SLP(C) Nos.24326 - 24335 of 2018, to be tagged alongwith SLP (C) Nos.6980 to 6996 of 2018.

9.Inasmuch as some of them have approached the Hon'ble Supreme Court, decision made in the above SLPS, under Article 141 of the Constitution of India, is binding and be applied to all persons similarly placed, while allowing the instant Writ Appeal No.2891 of 2019, we only observe that decisions made in SLPS be applied to



the case of the respondent herein, as well."

7. Considering the aforesaid facts and circumstances of the case, we do not want to interfere with the order of the learned Judge, for the reason that in terms of Rule 25(b) of the Special Rules for Tamil Nadu Subordinate Service Rules, a police person transferred from one district/wing to another district/wing will not lose his seniority, which has been clearly dealt with by the learned Single Judge.

8. Insofar as the Judgment dated 04.09.2019, in W.A.No.2891 of 2019, relied upon by the learned Government counsel for the Appellant is concerned, it is made clear that it is for the Department to work out the remedy in accordance with law, after the orders in the pending SLP.

9. In the result, this Writ Appeal stands dismissed and the order dated 18.12.2013, passed by the learned Single Judge in W.P.No.33761 of 2013 is confirmed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

arr

To:

The Commissioner of Police,
Greater Chennai City,
Egmore

+1cc to Mr.M.S.Soundararajan, Advocate, S.R.No.49225

+1cc to the Government Pleader, S.R.No.50880

W.A.No. 1573 of 2014

SVI(CO)
RGA(26/11/2021)