

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.01.2021

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.Nos.965 and 967 of 2014

N.Murugan ... Petitioner in WP.No.965 of 2014

M.Pongiannan ... Petitioner in WP.No.967 of 2014

Vs.

1. State of Tamil Nadu rep. by its Secretary to Government, Home Department, Fort St. George, Chennai - 600 009.
 2. The Director General of Police, Chennai - 600 004. ... Respondents 1 & 2 in both Writ Petitions
 3. The Superintendent of Police, Coimbatore District. ... 3rd Respondent in WP.No.965 of 2014
- The Superintendent of Police, Erode. ... 3rd Respondent in WP.No.967 of 2014

Petitions filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to direct the respondents herein to fix the pay of the petitioners on par with his junior Mr.Eswaran (HC 1434) and grant all consequential benefits in the light of the Orders passed by this Court in W.P.Nos.9527 and 9528 of 2006 dated 13.09.2010 which was implemented by the Commissioner of Police, Coimbatore City in his proceedings CPO No.1545/2011, C.No.Y3/23027/2011 and CPO No.1566/2011, C.No.Y3/23207/2011 both dated 08.10.2011.

For Petitioners: Mr.M.Baskaran

For Respondents: Mr.A.N.Thambidurai

Special Government Pleader

COMMON ORDER

Heard both sides and perused the materials placed before this Court

2.The prayer made in these writ petitions is to issue a mandamus directing the respondents herein to fix the pay of the petitioners on par with his Junior Eswaran and grant all consequential benefits, in the light of the order of this Court in W.P.Nos.9527 and 9528 of 2006 dated 13.09.2010 which was implemented by the Commissioner of Police, Coimbatore City in his proceedings dated 08.10.2011.

3.According to the petitioners, they were enlisted in the police department on 13.08.1973 and 03.04.1967 respectively, as Grade II Constables and were later, promoted as Grade I Constables on 19.02.1993 and 17.12.1996 respectively and as Head Constables with effect from 10.09.1998 and 25.07.2000 respectively and thereafter, as Sub Inspector of Police on 13.08.2008 and 13.10.2008 respectively and ultimately retired from service on 30.04.2011. It is the grievance of the petitioners that one Eswaran and 34 others, who were recruited in the year 1981 as Grade II Constable, Category III in Tamil Nadu Special Police Establishment and were transferred to Taluk police on request as Grade II police constables in the year 1993, were promoted as Grade I Constables in the year 1998 and became Head Constables on 16.09.2000. However, their basic pay was fixed as Rs.16,320/- per month, whereas the basic pay of the petitioners was Rs.5,600/- per month, as on 30.11.2006. It is the further case of the petitioners that one B.Radhakrishnan and K.Padmaraj filed WP Nos.9527 and 9528 of 2006, which were disposed by this Court vide order dated 13.09.2010, pursuant to which, the Commissioner of Police, Coimbatore City, vide proceedings dated 08.10.2011 had stepped up the pay of the petitioners therein on par with their junior Eswaran and paid pay and other entitlements to them. Extending the same benefit to the present petitioners as well, these two writ petitions came to be filed.

4.The third respondent filed a separate counter affidavits inter alia stating that the representations of the petitioners claiming the pay parity were examined in detail and ultimately, rejected, stating that as per Ruling 2 under Rule 22(B) of the Fundamental Rules, both the junior and senior officers should belong to the same cadre and the post in which they have been promoted or appointed, should be identical and in the same cadre; and the scale of pay of the lower and higher posts in which they are entitled to draw pay, should be identical. In the present case, the services of the petitioners and the services

of their juniors are entirely different and hence, the pay fixation on par with their junior does not arise. It is also stated therein that the common order dated 13.09.2010 passed by this Court in WP.Nos.9527 and 9528 of 2006 was challenged in WA.Nos.398 and 399 of 2013, which were allowed by judgment dated 02.07.2013 and hence, the request of the petitioners cannot be considered.

5.In the light of the specific averment made in the counter affidavit filed by the third respondent that the common order passed in WP.Nos.9527 and 9528 of 2006 was subsequently, set aside in the writ appeals filed by the department, this Court is not inclined to grant the relief sought in these writ petitions.

6.Therefore, both the writ petitions stand dismissed. No costs.

s/d-
Assistant Registrar(CS-IX)

True Copy

Sub-Assistant Registrar

vrc

To

1. The Secretary to Government,
Home Department, Fort St. George,
Chennai - 600 009.
2. The Director General of Police,
Chennai - 600 004.
3. The Superintendent of Police,
Erode.
4. The Superintendent of Police,
Coimbatore District.

+1 CC to The Government Pleader sr 4205.

W.P.Nos.965 and 967 of 2014

KV(CO)
SP(09/07/2021)