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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.08.2021

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THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.30089 of 2017

(Through Video Conferencing)

N.Vijaya Chandran

.. Petitioner

vs.

1.The Director General of Police,
Myalpore, Chennai-2.

2.The Superintendent of Police,
Tirunelveli District.

.. Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the proceedings in C.No.A4/10725/2017 dated 16.03.2017 on the file of the 2nd respondent and quash the same and direct the respondents to include the petitioner's name in the appropriate place in the select list for the year 1992-1993 along with his batch mates recruited in the year 1992-1993 with due seniority and award all consequential service benefits.

For Petitioner : M/s.M.S.Soundararajan

For Respondents : Mr.LS.M.Hasan Fizal
Government Advocate.

O R D E R

The petitioner had appeared in the competitive exam for being selected as a Grade II Police Constable during the year 1992-1993. However, he has not given appointment on account of the fact that the petitioner was previously involved in a criminal case.



2. Aggrieved by the proceedings of the 1st respondent dated 17.10.2000, the petitioner has filed the application in O.A.No.6566/1995 before the Tamil Nadu Administrative Tribunal, Chennai. By an order dated 14.02.2001, the said application was allowed by directing the respondents to conduct another police verification about the petitioner's antecedence and if there were no adverse remarks are brought to the notice at the time of such enquiry apart from the criminal case mentioned, the petitioner shall be considered as a fit person for being appointed. The respondents were directed to pass appropriate orders within a period of six months from the date of receipt of that order.

3. Pursuant to the aforesaid order, the petitioner was issued with an appointment order dated 06.02.2002 and absorbed into the service of the Commandant, Tamil Nadu Special Police as Grade II Police Constable.

4. It is the case of the petitioner that the petitioner is entitled for being promoted on par with batch mates who qualified with him in the competitive exam held during 1992-1993. In this connection, the petitioner has sent a representation which is culminated in the impugned order dated 16.03.2017. It is submitted that a similar issue was decided by this Court in W.P.No.19010 of 2017 vide its order dated 02.08.2021. There, this Court referred other decisions of the Hon'ble Supreme Court including the decision of the Hon'ble Supreme Court in State of Haryana vs. Dinesh Kumar, (2008) 3 SCC 222, it held as follows:

" 19. Since the petitioner's appointment was not in terms of G.O.Ms.No.1339 Home (Pol.III) Department dated 01.10.1999, the petitioner is entitled to seniority on par with his batch mates as the criminal proceedings initiated against the petitioner were not proceeded. Therefore, the writ petition deserves to be allowed."

5. In the impugned order dated 16.03.2017, the respondents have cited the above mentioned the G.O.for denying promotion to the petitioner. From a reading of the appointment order dated 06.02.2002, it is clear that the petitioner's appointment was not in terms of G.O.Ms.No.1339 Home (Pol.III) Department dated 01.10.1999. Therefore, the petitioner is entitled for promotion along with his batch mates.



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6. In the light of the above, the impugned order is liable to be quashed. Accordingly, it is quashed with consequential relief to the petitioner. The respondents are therefore directed to include the name of the petitioner in the appropriate place in select list among the persons who were appointed in the Tamil Nadu Uniformed Service Recruitment Board pursuant to exam conducted for Grade II Police Constables for the year 1992-1993 with a consequential service benefit to the petitioner. This exercise shall be carried out by the respondents within a period of twelve weeks from the date of receipt of a copy of this order.

7. This writ petition stands allowed with the above observation. No costs.

Sd/-
Assistant Registrar (CS-VI)

// True Copy //

Sub Assistant Registrar

kkd

To

1.The Director General of Police,
Myalpore, Chennai-2.

2.The Superintendent of Police,
Tirunelveli District.

+1CC to M/s.M.S.Soundra Rajan, Advocate, SR.No.42731

+1CC to The Government Pleader, SR.No.43002

W.P.No.30089 of 2017

KSM(CO)

B.VC (20/09/2021)