



WEB COPY

W.P.No.3170 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.10.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.3170 of 2019

Paul Prem Kumar

...Petitioner

Vs.

1. The Secretary to Government,
Home (Police IX) Department,
Fort St.George, Chennai-9.

2. The Director General of Police, Tamilnadu,
Dr.Radhakrishnan Salai,
Mylapore, Chennai-4.

3. The Additional Director General of Police,
Armed Police, Kilpauk, Chennai-10.

..Respondents

Prayer : Writ Petition filed Under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, calling for the records of the 3rd respondent in connection with the impugned order passed by him in RC.No.Estt.II(1) /7467/2015 dated 10.10.2017 and quash the same in so far as the petitioner is concerned and direct the respondents to issue necessary orders for conversion of Band PC to general conversion as Grade-II PC and grant him all consequential service and monetary benefits.



For Petitioner : Mr.K.Venkat Ramani, Senior Counsel
for Mr. M.Muthappan

For Respondents : Mr.S.Rajesh,
Government Advocate.

ORDER

The order, dated 10.10.2017, passed by the third respondent, rejecting the claim of the writ petitioner for conversion of Band Police Constable to general conversion as Grade-II Police Constable, is under challenge in the present writ petition.

2. The order impugned states that the petitioner submitted an application seeking conversion of Band Police Constable to General Line in TSP Battalion. The said application submitted by the writ petitioner was considered by the respondents and rejected on the ground that the categories are distinct and different and thus, the conversion is impermissible in accordance with the rules in force. The said order was challenged in the present writ petition.



WEB COPY

3. The learned Senior Counsel appearing on behalf of the petitioner made a submission that initially, the claim regarding the conversion was accepted by the Courts and accordingly, the Band Police Constables were benefited. Thereafter, another Division Bench held that such conversion is impermissible on the ground that the categories are different and the duties and responsibilities between these two categories cannot be compared. The matter was heard by another Division Bench at later point of time in the case of **U.Barkath Vs. The Director General of Police [MANU/TN/4944/2019]** and the Division Bench held that the earlier judgements are *per incuriam* and formed an opinion that the cadres are distinct and different and the duties and responsibilities cannot be compared. Thus, the claim for conversion was rightly rejected by the Authorities Competent.

4. The learned Government Advocate appearing on behalf of the respondents submitted a chart relating to the duties and responsibilities attached to the categories of Band Police Constable and General Line Police Constables, which reads as under :



WEB COPY

Difference	Band Police Constable	General line Police Constable
Recruitment body	Special Band Selection Committee	Uniformed Services Recruitment Board (USRB)
Applicants	Candidate having knowledge to play music instruments	Any candidate having good physique, sound knowledge, good attitudes & antecedents
Minimum General qualification	8th Standard (can be relaxed)	10th Standard (Can not be relaxed)
Selection procedure	Trial Test in Music proficiency	i) Written Examination ii) Endurance Test iii) Physical Efficiency Test iv) Communal rotation
Place of work	Music Band Teams in City on special occasions	Any Law & Order, Crime, Bundhobust, Escorting and certain special works at any time and any place
Training	Music instruments playing	Weapons tactics, Law Classes, Drill, etc
Type of duty	At Celebration events	Arduous/rigorous nature Duty at any place, any time

5. In view of the fact that the issues raised are no more *res integra* and the Division Bench of this Court in Writ Appeal No.2475 of 2018 held that the conversion between these two categories is impermissible. Thus no further consideration is required in respect of the grounds raised in this writ petition. The operative portion of the order passed by the Division Bench in paragraph 37 reads as under:



WEB COPY

W.P.No.3170 of 2



“The Judgement of the Hon'ble Division Bench is clearly hit by doctrines of per incurium and sub silentio and is therefore, not a binding precedent. It is therefore not necessary to place the case, before My Lord the Hon'ble Chief Justice, to be placed before a larger Bench. Hence, the instant Writ Appeal is dismissed. No Costs. Consequently, the connected miscellaneous petitions are closed.”

6. Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs.

11.10.2022

Index : Yes
Speaking order
sha/Svn



W.P.No.3170 of 2



S.M.SUBRAMANIAM, J.

sha/Svn

To

1. The Secretary to Government,
Home (Police IX) Department,
Fort St.George, Chennai-9.
2. The Director General of Police, Tamilnadu,
Dr.Radhakrishnan Salai,
Mylapore, Chennai-4.
3. The Additional Director General of Police,
Armed Police, Kilpauk, Chennai-10.

W.P.No.3170 of 2019

11.10.2022