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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.04.2022

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THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.24915 of 2010

K.Gopalakrishnan

...Petitioner

Vs.

1.The Secretary to Government  
Home (Police XI) Dept.,  
Fort St.George, Chennai 9.

2.The Director General of Police,  
Chennai - 4.

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

4. The Inspector 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 or any other appropriate Writ or order or direction in the nature of Writ calling for the records of the respondent in connection with the impugned order passed by the 4th respondent in RC No.A1/8441/09 dated 10.09.2009 and quash the same and direct the respondents to promote the petitioner at par with his batchmate Paulraj and grant him all consequential service and monetary benefits.

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

For Respondents : Mrs.E.Renganayaki  
Additional Government Pleader



## O R D E R

The petitioner who was a Sub-Inspector of Police, who since superannuated, has filed the present Writ Petition, challenging the impugned order dated 10.09.2009, whereby the request of the petitioner vide his representation dated 17.03.2009 was rejected on the ground that he cannot claim parity with the person pointed out by him viz., one Paulraj, since he belonged to yet another specialized service and there is no provision to claim parity by a person who is in a specialized service with another specialized service.

2. The case of the petitioner is that it is not pursuant to any exercise of option upon by which he was posted in the particular special branch i.e., motor transport branch. Persons were posted in the particular specialization depending upon their qualifications. Because the petitioner had a driving licence, he was posted in the motor transport branch. Because the said Paulraj was in the particular (Radio / Telegraph) specialized branch, he earned promotion ahead of the petitioner. Therefore, according to him, this is an anomalous situation arising out of administrative action of the respondents. He is entitled the claim parity with the said Paulraj and therefore, the present Writ Petition is filed challenging the order dated 10.09.2009 passed by the respondents and consequently to promote the petitioner on par with his batchmate Paulraj and to grant him all consequential service benefits.

3. The respondents resisted the case by filing a counter affidavit. The respondents would submit that the petitioner was posted to motor transport wing as a Driver Police Constable, as he is technically qualified to serve in the wing and as on date when he made the representation that he belonged to the specialized wing. It is the further case of the respondents that there is no Rule which aids the petitioner to claim parity with that of Paulraj, who does not belong to the same specialization or the general line. No benefit can be claimed and therefore, the impugned order was passed rightly rejecting the representation of the petitioner.

4. Heard Mr.K.Venkataramani, learned Senior Counsel appearing for the petitioner and Mrs.E.Renganayaki, learned Additional Government Pleader appearing on behalf of the respondents.



5. The learned Senior Counsel appearing for the petitioner would submit first that there is no sound logic on the part of the respondents in denying the benefit. Admittedly the junior has got the benefit. He would submit that even in the absence of the relevant Rules, the respondents ought to have granted the benefit and the Judgment which is quoted in the impugned order is totally in different circumstances which can have no reliance to the prayer made in this Writ Petition. Alternatively, he would submit that the representation also mentions the names in the general line and according to him, as per Clause (f) of Rule 24 which permitted migration to general line and claiming of seniority, the respondents ought to have considered the case of the petitioner with reference to the general line. He would also produce a representation dated 20.02.2002 made by the petitioner, which is not part of the paper book, whereunder, migration to the general line was specifically prayed for by him. Therefore, he would submit that the impugned order should be quashed and he should be granted benefit with reference to Paulraj or in the alternative stream, permit him to make a representation afresh in respect of migration to general line and the respondents should be directed to consider the same and pass fresh orders thereof.

6. Per contra, the learned Additional Government Pleader submits that as far as this Writ Petition is concerned, a perusal of the pleadings and the specific prayer, it would be clear that the petitioner is claiming parity only with the said Paulraj who belongs to the other specialized cadre. There are two options, the specialized and the general line, which are totally different compartments. Once the petitioner was posted in the particular compartment, seniority and promotion will be given with reference to only that speciality or in the alternative, if the petitioner wants to migrate to the general category, he could have done so with reference to his original seniority. But, in this case, there was no prayer for the petitioner during his service to migrate to the general service, but, the only relief which is claimed is in respect of the said Paulraj. He would further submit that the earlier order passed by this Court in W.P.Nos.5654 and 5467 of 2009 dated 06.04.2009, only the representations of the petitioner dated 16.03.2009 and 17.03.2009 which were directed to be considered and in the said representations, there was no prayer in respect of any migration to the general category, but, the prayer is specifically only with reference to the said Paulraj. Therefore, she would submit that both the specialized categories are different compartments and no parity can be claimed with reference to Paulraj and



therefore, the impugned order rightly rejected the request of the prayer made by the petitioner.

7. I have considered the rival submissions made on behalf of both sides and perused the materials available on record.

8. As rightly contended by the learned Additional Government Pleader, the impugned order which is passed pursuant to the earlier direction of this Court, is only with reference to claiming parity with the said Paulraj and therefore, in the challenge to the said order and with reference to the particular pleading raised in the Writ Affidavit, as well as, the prayer made in the Writ Petition, I hold that the petitioner's submissions relating to migration to general line cannot be considered in the Writ Petition.

9. Now coming to the claim of parity with Paulraj is concerned, I am unable to agree with the contention of the learned Senior Counsel appearing for the petitioner, as there is no enabling Rule which entitles the petitioner to claim the benefit which accrued by virtue of serving the specialized service in a different compartment altogether. As rightly pointed out by the learned Senior Counsel, if only the general right of seniority which is deprived of by being posted in special category is affected, then the person was given the right to migrate to general category, claiming the original seniority by virtue of Rule 24 (f) in the Rules which is not the case of the petitioner herein.

10. Therefore, no exception can be taken for the impugned order rejecting the representation of the petitioner and therefore, the Writ Petition is without merit and therefore it is dismissed. No Costs.

s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

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+1 CC to Mr.M.Muthappan, Advocate sr 25855  
+1 CC to The Government Pleader sr 25920.

W.P.No.24915 of 2010

RR(CO)  
SP(06/05/2022)