



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.NO.4559 OF 2022

P.Marimuthu

... Petitioner

Vs.

1. The Director General of Police/
Director General of Prisons
and Correctional Services,
Egmore, Chennai - 600 008.
2. The Secretary,
Tamil Nadu Public Service Commission,
Frazer Bridge Road,
Chennai - 600 003.

... Respondents

Prayer: Writ petition filed under Section 226 of the Constitution of India seeking to issue a writ of Mandamus, directing the first respondent to promote the petitioner as Deputy Jailor based on the marks/rank assigned by the TNPSC with effect from September, 2020 on which date the petitioner's juniors were promoted and put the petitioner in the appropriate place of seniority by considering the petitioner's representation dated 15.07.2020 forwarded through the Superintendent, Central Prison, Coimbatore on 07.08.2020 and further representation dated 22.12.2021 forwarded through the Superintendent, Central Prison, Coimbatore on 27.12.2021.

For Petitioner : Mr.C.Munusamy

For respondents : Mr.P.Balathandayutham
Special Government Pleader for R1.

: Mr.V.Govardanan, Standing Counsel
for R2



ORDER

This writ petition has been filed for issuance of a Writ of Mandamus, directing the first respondent to promote the petitioner as Deputy Jailer based on the marks/rank assigned by the TNPSC with effect from September, 2020 on par with his juniors by considering the petitioner's representations dated 15.07.2020 and 22.12.2021.

2. The case of the petitioner in brief:

The petitioner was appointed as Assistant Jailer at Central Prison, Vellore on 01.04.2018, and his service was regularized on completion of probationary period on 10.08.2020. According to the petitioner, he is eligible for promotion to the post of Deputy Jailer and as per seniority list based on the rank and marks awarded by TNPSC, he was placed in Serial No.27, whereas, in the seniority list prepared by the Department, based on communal roster, he was placed in Sl.No. 40. As per the orders of this Court in W.P.No.998 of 2017 etc. batch dated 15.11.2019, the respondents ought to have considered the promotion based on seniority on the order of merit. Hence, he gave representations dated 15.07.2020, and 22.12.2021 to the respondents. But the respondents did not take positive steps. Hence this writ petition.

3. The learned counsel appearing for the petitioner submitted that the juniors to the petitioner were promoted as Deputy Jailor based on communal roster. But as per the decision of the Apex Court, seniority list shall be published only on the basis of merit determined by the Tamil Nadu Public Service and not on the basis of Roaster point. To support his contentions, he has relied upon the decision of a Division Bench of this Court in W.P.No.998 of 2017 on 15.11.2019, wherein it is stated as follows:

37.9. As we declare the provisions to be unconstitutional, the petitioners get their interest to be considered for promotion based on their seniority on the order of merit. It does create an interest to be considered for promotion with seniority as a facet of intact. Certainly, a declaration of law by a constitutional court followed by its directions creates a right which can be enforced after the impediment goes. Support is drawn by us in the decision of the Apex Court in ... "

4. He further submitted that, the above said order has been upheld by the Hon'ble Supreme Court in SLP No.2861 to 2876 of 2020 dated 06.07.2020. Hence, the respondents may be directed to



consider the representation of the petitioner and promoted the petitioner as Deputy Jailor, based on the marks assigned by the TNPSC, on par with his juniors.

5. The learned Additional Government Advocate submitted that, if the petitioner is eligible, his request will be considered by the authorities concerned and appropriate orders will be passed, in accordance with law.

6. In view of the above submissions and also considering the limited scope of prayer, and to meet the ends of justice, without expressing any opinion on merits, this court is inclined to pass orders.

7. Accordingly, it is ordered as follows:

i) The first respondent is directed to consider the petitioner's representations dated 15.07.2020 and 22.12.2021 and pass orders in accordance with law, as expeditiously as possible within a period of four months from the date of receipt of a copy of this orders.

ii) The petitioner is directed to furnish the copy of the representations along with the copy of this order to the first respondent, within two weeks from the date of receipt of a copy of this order.

8. With the above directions, this writ petition is disposed of. No costs.

Sd/-

Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

mst

To

1. The Director General of Police/
Director General of Prisons and Correctional Services,
Egmore, Chennai - 600 008.

2. The Secretary,
Tamil Nadu Public Service Commission,
Frazer Bridge Road, Chennai - 600 003.

+1cc to M/s.V.Govardhanan , Advocate, S.R.No.14726

+1cc to the Government Pleader, S.R.No.14650

W.P.No.4559 of 2022

RR(CO)

RLP(18/03/2022)