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W.P.No.7270 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :09.09.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.No.7270 of 2020

A.Thirumaran

..Petitioner

Vs.

1. The Secretary to Government,
Home (Police) Department, Chennai.

2. The Director General of Police,
Law & Order, Chennai – 600 004.

3. The Superintendent of Police,
District Police Office, Erode District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for Writ of Mandamus, directing the first respondent herein to consider and pass orders on the petitioner's representation dated 20.11.2018 regarding granting of promotion on par with his batch-mates taking into account his original date of appointment as criteria for seniority and in the light of the orders passed by this Hon'ble Court in W.P.(MD).No.1554 of 2019 etc., batch reported in 2020 (2) MLJ page 165 and G.O.Ms.No.304 (Home Pol VI) Department dated 17.06.2019 within a time frame.



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For Petitioner : M/s. Bala & Daisy
For Respondents : Mr.T.Chezhiyan
Additional Government Pleader

ORDER

The prayer sought for herein is for a writ of mandamus to direct the first respondent herein to consider and pass orders on the petitioner's representation dated 20.11.2018 regarding granting of promotion on par with his batch-mates taking into account his original date of appointment as criteria for seniority and in the light of the orders passed by this Hon'ble Court in W.P.(MD).No.1554 of 2019 etc., batch reported in 2020 (2) MLJ page 165 and G.O.Ms.No.304 (Home Pol VI) Department dated 17.06.2019 within a time frame.

2. The petitioner was appointed as Grade II Police Constable on 31.10.1997, thereafter he was promoted as Grade I Police Constable and further, he was promoted as Head Constable on 22.11.2011. He had completed more than 20 years of service in the Department.



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3. The petitioner was attaining the superannuation on 30.11.2018 and on that date, he was permitted to retire, therefore, he retired from service.

4. In this context, it is the grievance espoused by the petitioner through his representation dated 20.11.2018 that there was two wings of Police Constable, one is that Motor Transport wing and another one is that Armed Reserve. The selection and appointment to both the category of police personnel since one and the same and the service conditions as well as the emoluments payable to them except special pay of Rs.40/- initially presently Rs.120/- was payable to the Motor Transport wing of the police and all other parameters are one and the same. Therefore, insofar as maintaining the seniority among these two wings of the police personnel there must be one seniority. However, hitherto the Department has been maintaining the two seniority list and the promotion is given based on the two separate seniority list, the said position has been considered by a Division Bench of this Court in W.P.No.25043 of 2002 dated 18.09.2007, pursuant to which, the respondents Department by



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relaxing the relevant rule in the Tamil Nadu Police Subordinate Service Rules (in short, 'the Rules') viz., 3 (a)(i) of the Rules had given promotion to two individuals, who are otherwise could not have achieved the promotion, if the two seniority list is maintained in respect of them.

5. The same policy should have been adopted in the case of the petitioner also, as the petitioner had been in the Motor Transport wing in the Erode District and based on the seniority in the Motor Transport wing in the Erode District, he could not have achieved the promotion as Sub-Inspector of Police before his superannuation and if the relaxation of Rule 3(a)(i) of the Rules as given to other two individuals pursuant to the Division Bench Judgment referred to above is given to the petitioner or such a relief is given to the petitioner he would also have earned such promotion and therefore, in order to get such notional promotion by maintaining a single seniority list by implementing the orders of the Division Bench of this Court referred to above and also subsequent order passed by this Court in Madurai Bench in a batch of writ petitions by a learned single judge in the matter of ***S.Parthiban & Ors. Vs. Secretary to***



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Government, Home Police Department and ors. reported in (2020) 2

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MLJ 165, the petitioner has given a detailed representation on 20.11.2018 and the said representation since has not been considered, he has filed this writ petition with the aforestated prayer.

6. Heard M/s.Bala and Daisy, learned counsel appearing for the petitioner, who having reiterated the aforesaid would seek indulgence of this Court to issue a direction to the respondents to consider the representation of the petitioner for giving such benefit, which has already been given to two persons and also pursuant to the order passed by the Madurai Bench of this Court reported in **(2020) 2 MLJ 165** (cited supra) and in that case the petitioner would be getting the chance of promotion notionally to the post of Sub-Inspector of Police before his superannuation and hence, the learned counsel seeks indulgence of this Court in that line.

7. However, Mr.T.Chezhiyan, learned Additional Government



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Pleader appearing for the respondents has submitted that the very prayer sought for in this writ petition is to consider the representation of the petitioner dated 20.11.2018 on the basis of the order passed by this Court at Madurai Bench reported in **(2020) 2 MLJ 165** (cited supra).

8. Learned counsel further submitted that the said judgment of the Madurai Bench has not been implemented, instead the respondents has prepared a batch of writ appeals against the said order dated **06.01.2020** and the lead case in the writ appeals batch is W.A.(MD).No.1192 of 2020 and the said writ appeals having been entertained and pending before the Madurai Bench of this Court and therefore, awaiting the orders to be passed by the Division Bench, since the writ appeals are pending, the orders passed by the Writ Court in **(2020) 2 MLJ 165** (cited supra) since has not been implemented, the representation of the petitioner dated 20.11.2018 cannot be considered as prayed by the petitioner in the line of the said judgment.

9. I have considered the said submission made by the learned



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counsel appearing for both sides and have perused the materials placed before this Court.

10. Since the petitioner has given a representation on 20.11.2018 to consider the import of the law declared by this Court reported in **(2020) 2 MLJ 165** (cited supra), however, the said judgment having been appealed in W.A.(MD).No.1192 of 2020 & etc batch, which is pending for consideration, this Court feels that such a consideration sought for by the petitioner can be made by the respondents depending upon the outcome of the decision to be made by a Division Bench in the pending writ appeals at Madurai Bench of this Court.

11. In that view of the matter, this Court is inclined to dispose of this writ petition with the following orders:

- ◆ That there shall be a direction to the respondents to consider the representation of the petitioner dated 20.11.2018 with regard to his grievance to get notional promotion as Sub-Inspector of Police based on the single seniority list in the Motor Transport wing as



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well as the Armed Reserve in the light of the decision of this Court reported in **(2020) 2 MLJ 165** (cited supra) only after getting verdict from the Division Bench of this Court, where W.A.Nos.1192 of 2020 & etc batch is pending and after the order passed by the Division Bench such a indulgence can be shown by the respondents as indicated above.

With this direction, this writ petition is disposed of. No costs.

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Index : Yes/No

Internet: Yes/No

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To

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R.SURESH KUMAR.J,

mp

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