



W.P.Nos.35138, 35139, 35140 & 35141 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.11.2022

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.Nos.35138, 35139, 35140 & 35141 of 2016

S.Nagadevi	...	Petitioner in W.P.No.35138 of 2016
P.Thangarasu	...	Petitioner in W.P.No.35139 of 2016
K.Kishore Babu	...	Petitioner in W.P.No.35140 of 2016
S.Murugeswathi	...	Petitioner in W.P.No.35141 of 2016

Vs.

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

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

3. The Chairman,
The T.N.Uniformed Services Recruitment Board,
Anna Salai, Chennai-2.

... Respondents in all the Writ Petitions

Common Prayer : Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of Mandamus, directing the respondents



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to select the petitioner for appointment as Sub-Inspector of Police in pursuance of the cut off marks secured by him in the recruitment process conducted in the year 1997-98 as per the orders of the Honourable Supreme Court in SLP No. 21828/2006 in Civil Appeal No. 7667/2014 etc. dated 07.08.2014 and appoint him as Sub-Inspector of Police and grant him all consequential service and monetary benefit.

For Petitioner in
all the Writ Petitions : Mr.S.Sivakumar

For Respondents in
all the Writ Petitions : Mr.S.Rajesh
Government Advocate [for R.1 & R.2]
: Mr.P.Kumaresan, AAG, assisted by
Mrs.Sowmi Dattan [for R.3]

COMMON ORDER

The reliefs sought for in the present writ petitions are to direct the respondents to select the petitioners for appointment as Sub-Inspector of Police in pursuance of the cut off marks secured by them in the recruitment process conducted in the year 1997-98 as per the orders of the Honourable Supreme Court in SLP No. 21828/2006 in Civil Appeal No. 7667/2014 etc. dated 07.08.2014 and appoint them as Sub-Inspector of Police and grant them all consequential service and monetary benefit.



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2. The petitioners state that they are fully qualified for selection to the post of Sub Inspectors in the Tamil Nadu Police Department. The Tamil Nadu Uniformed Services Recruitment Board invited applications from the eligible candidates for appointment to the post of Sub Inspector of Police Category-I by direct recruitment under 80% quota from open market. The petitioners submitted their applications and participated in the process of selection in Madurai, Tanjore, Villupuram & Tirunelveli Range respectively, in all the three stages, namely, physical efficiency test, written test and viva voce.

3. The grievance of the petitioners is that the similarly placed persons, whose cases were not considered for appointment to the post of Sub Inspector of Police, approached the Tamil Nadu Administrative Tribunal and thereafter High Court and thereafter the Honourable Supreme Court. The Apex Court passed an order directing the Department to extend the benefits granted by the High Court to all the similarly placed persons, if they are otherwise eligible and qualified based on the marks secured by them in the selection process. The Apex Court further held that the benefits granted to the similarly placed persons need not be restricted to the persons,



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who approached the Court, but it is to be extended to the persons, who have not approached the Court, but eligible for selection and appointment.

4. The learned Additional Advocate General appearing for the respondents contended that the claim of all those persons was considered and in some cases, the Department rejected the claim of those persons and second round of litigations were filed by them before the High Court and the claim of those persons were directed to be considered and they were appointed accordingly.

5. This Court is of the considered opinion that the persons, who were all along waiting till the disposal of all these litigations, filed fresh writ petitions in the year 2014-2015. In other words, third batch of writ petitions was filed belatedly after the disposal of cases by the Honourable Supreme Court. All such cases were tagged together and a common Judgment was passed by this Court by elaborately considering the issues on 27.01.2016. This Court has dealt with Category-III, which all are falling under the category of delay and latches. In this regard, this Court observed as follows:

“Issue No.III



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39. In *Kunhayammed and Others v. State of Kerala and Another* [(2000) 6 SCC 359] it has been held that if the judgment of the High Court has come up to the Supreme Court by way of a special leave, and special leave is granted and the appeal is disposed of with or without reasons, by affirmative or otherwise, the judgment of the High Court merges with that of the Supreme Court. In that event, it is not permissible to move the High Court by review because the judgment of the High Court has merged with the judgment of the Supreme Court. It has been further held that dismissal of SLP by the words “dismissed on merits” would remain a dismissal by a non-speaking order where no reasons have been assigned and no law has been declared by the Supreme Court; the dismissal is not of the appeal but of the special leave petition and even if the merits have been gone into, they are the merits of the special leave petition only and neither doctrine of merger nor Article 141 of the Constitution is attracted to such an order.

40. This Court, while answering Issue No.I has dealt with the case of Mr.M.Muthukumar/petitioner in W.P.No.25146 of 2014 and S.L.P(C)No.3950-3951 of 2014, which came to be dismissed on the ground of delay with costs and in the light of the ratio laid down in the above cited decisions, it cannot be said that the order of dismissal in W.P.No.27969/2007 on the



ground of laches merge with the order of dismissal passed by the Hon'ble Supreme Court in the Special Leave Petitions.

41. Therefore, Issue No.3 is answered accordingly.

Issue No.IV

42. In the light of the findings/answers given to Issue Nos.I to III, the petitioners in Category I and II, both in Principal Bench as well as Madurai Bench, are entitled to succeed. Insofar as the petitioner in 64 W.P.No.25146 2014 is concerned, if records are available he has to undergo viva-voce test; otherwise the findings rendered by the Hon'ble Supreme Court in paras 5 and 6 of the decision in **K.K.Senthil Kumar's** case would come into operation.

43. This Court has to deal with Category III cases where the petitioners approached this Court by filing writ petitions during the years 2014 and 2015 respectively, after the above cited judgment rendered by the Hon'ble Supreme Court of India in **K.K.Senthil Kumar's** case. It is to be noted at this juncture that the petitioners were fence sitters and waited on the side lines as to the result of the litigation and after becoming aware of the judgment in **K.K.Senthil Kumar's** case referred to supra, has jumped into the fray by filing writ petitions during the years 2014 and



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2015 respectively and pray for their appointment as Sub-Inspectors of Police.

44. In ***Rup Diamonds and Others v. Union of India and Others*** [AIR 1989 SC 674 = (1989) 2 SCC 356], the Hon'ble Supreme Court observed as follows:

"Petitioners are re-agitating claims which they had not pursued for several years. Petitioners were not vigilant but were content to be dormant and chose to sit on the fence till somebody else's case came to be decided. Their case cannot be considered on the analogy of one where a law had been declared unconstitutional and void by a court, so as to enable persons to recover monies paid under the compulsion of a law later so declared void. There is also an unexplained, inordinate delay in preferring the present writ petition which is brought after a year after the first rejection. As observed by the Court in Durga Prashad case, the exchange position of this country and the policy of the government regarding international trade varies from year to year. In these matters it is essential that persons who are aggrieved by orders of the government should approach the High Court after exhausting the remedies provided by law, rule or order with utmost expedition. Therefore, these delays are sufficient to persuade the Court to decline to interfere. If a right of appeal is available, this order rejecting the writ petition shall not prejudice petitioners' case in any such appeal." (emphasis supplied)



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45. *The petitioners in Category III cases has approached the Court only after the judgment in K.K.Senthil Kumar's case and did not agitate their grievance for quite longtime. On account of such a lapse of time and belated approach, they are not entitled to get the relief of parity with petitioners with regard to Category I and II, though they are similarly placed. In the considered opinion of the Court, the claim of the petitioners are hit by delay and laches in the facts and circumstances of their case and hence, equitable jurisdiction of this Court cannot be exercised in their favour."*

6. In the penultimate portion of the order, this Court has held as follows:

"(ix) The writ petitions in respect of Category III, are dismissed. No costs."

7. The present writ petitions were filed during March 2016, i.e., even beyond those writ petitions which were decided by this Court in January 2016 and after a lapse of 18 years from the date of selection process i.e.1997-1998. In view of the fact that the petitioners have slept over their right and filed the present writ petitions after a lapse of 18 years, the relief as such sought for cannot be considered as the issues were settled by the Honourable Supreme Court long back and such settled issues cannot



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now be unsettled and in the event of any such appointment based on the selection of the year 1997-1998, the services of many other candidates will be affected and therefore, all these writ petitions are liable to be dismissed on the ground of delay and laches.

8. Accordingly, four of the writ petitions stand **dismissed**. No costs.

15.11.2022

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Internet : Yes
Index : Yes
Speaking order

To,

1. The Secretary to Government,
Home (Police II) Department,
Fort St. George, Chennai-9.
2. The Director General of Police,
Dr.Radhakrishnan Salai,
Mylapore, Chennai-4.
3. The Chairman,
The T.N.Uniformed Services Recruitment Board,
Anna Salai, Chennai-2.

S.M.SUBRAMANIAM, J.



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