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W.P.No. 17035 of 2019



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.12.2022

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. No. 17035 of 2019

S.Nareshkumar

... Petitioner

Vs

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

2. The Director General of Police,
Mylapore,
Chennai – 4.

3. The Commissioner of Police,
Greater Chennai,
Veppery, Chennai.

... Respondents

Prayer : Writ Petition filed Under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records of the second respondent in connection with the impugned order passed by him in Rc.No.Estt-II(3)/103/21546/2016 dated 23.09.2016 and quash the same and further direct the respondents to consider the claim of the petitioner for appointment as Sub-Inspector of Police by conversion from Armed Reserve to Taluk Police (L&O).

For Petitioner

: Mr. S. Sivakumar

For Respondents

: Mr. S. Rajesh
Government Advocate



ORDER

The order of rejection, rejecting the claim of the writ petitioner for conversion from Armed Reserve to Taluk police in the cadre of a Sub Inspector, is under challenge in the present writ petition.

2. The petitioner was directly recruited as Sub Inspector of Police in the year 2008 and posted at Armed Reserve, Chennai city. The competent authorities considered the name of the writ petitioner for conversion from Armed Reserve to Taluk Police (L&O) and an order was passed by the Government in G.O.Ms.No.249, Home Police Department dated 29.02.2016. However, the petitioner, during the relevant point of time, was facing certain family difficulties, and accordingly expressed his unwillingness to join duty in Taluk Police (L&O). His request to continue in Armed Reserve was considered by the competent authorities and accordingly he was allowed to continue as a Sub Inspector of Police and promoted to the post of Inspector of Police in the Armed Reserve.

3. The learned counsel for the petitioner made a submission that the petitioner subsequently submitted a representation to consider his case for conversion to Taluk Police (L&O). However, no order has been passed till



date on the said representation. Therefore, the petitioner has moved this writ petition.

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4. The learned Government Advocate appearing on behalf of the respondents objected to the contention raised on behalf of the petitioner by stating that the case of the writ petitioner was initially considered for conversion and the Government issued an order in G.O.Ms No.249, Home Police Department dated 29.02.2016. The petitioner had not availed of the opportunity to serve in Taluk Police (L&O) and expressed his unwillingness to join in Taluk Police and accordingly his request was acceded by the competent authorities and he was allowed to continue in Armed Reserve force. The order was passed on the representation since as per G.O.Ms.No.249, Home Department, dated 29.2.2016, the petitioner's earlier unwillingness for Sub Inspector (Taluk Police) is permanent as the conversion of Sub Inspector Taluk Police is a one time measure.

5. A perusal of G.O.Ms.No.249 dated 29.02.2016 reveals that the Government approved the transfer of Sub Inspector of Police, Armed Reserve to Taluk Police as one-time measure on certain terms and conditions. Conversion was granted as one time measure and therefore, the same cannot



be claimed as a matter of right. The opportunity provided to the writ petitioner was not utilized by him and the petitioner expressed his unwillingness to serve in Taluk Police. Authorities accepted the request of the writ petitioner and allowed him to continue in Armed Reserve. Now, the petitioner is working in the cadre of Sub Inspector of Police and therefore, his case cannot be directly considered for conversion since the Government Order itself stipulates a condition that the conversion was a one time measure on certain terms and conditions. Reconsideration is an administrative discretion of the competent authorities and the High Court, in exercise of the powers of judicial review, cannot direct the authorities to grant conversion to the writ petitioner.

6. Conversion is an administrative affair and there is no change of service condition or otherwise. The service condition for the cadres of Sub Inspector in the Armed Reserve as well as in the Taluk Police are one and the same. Therefore, conversion cannot be claimed as a matter of right by the police personnel. The issue in this regard is elaborately considered by this Court in the case of ***R.Muthukumaran vs. State***, (W.P.No. 9048 of 2016 and W.P.Nos.1668 to 1670 of 2017, dated 06.09.2022). Relevant



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paragraphs are extracted as under:

“12. Post or status, at no circumstances, be claimed as a matter of right by the public servants. It cannot be the choice. Conversion from one wing to another wing of the Department on similar service conditions could not cause any infringement of service rights of the public servants. Certain wings are considered as sensitive in Police Department and women and men of integrity with additional skills are engaged to perform such sensitive duties. Law and Order Wing is an important wing in the Police Department, dealing with the public directly. Thus, women and men of skills and additional ability are considered for conversion and posting in Law and Order category. Conversion from one wing to another wing is an additional avenue provided to the employees and such conversion would not confer any right. While undertaking the process of conversion, the Competent Authorities are bound to follow the eligibility criteria, so as to ensure that women and men of ability are posted in Law and Order category. The assessment of suitability and eligibility must be made in accordance with the guidelines issued by the Government in this regard and such an assessment made in accordance with the guidelines by the Competent Authority cannot be interfered with by the High Court in a routine



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manner. If at all the conversion to Law and Order category is tainted with the allegations of mala fides or an act of unfairness is found, then alone, the Court would interfere, but not otherwise. It is within the domain of the Competent Authorities to assess the suitability and eligibility of the Police personnel for conversion to Law and Order category. It is an administrative propagative, which cannot be interfered with in normal circumstances. The High Court would not interfere with the routine administration of Police Department and other Government Departments. The Authorities Competent are the best persons to assess the ability and suitability of the Police Personnel for the purpose of grant of conversion to the Law and Order category. Personal assessment, working ability, talent etc., are the subjective satisfaction of the Competent Authorities, and the power in this regard are expected to be exercised in accordance with the guidelines issued by the Government. The Government prescribed certain norms for the purpose of conversion. It is not in dispute that the norms contemplated are that the Police Personnel must be a graduate, should not have completed 40 years of age and should have put in 5 years of service and have unblemished record of service. That apart, eligibility, selection, training, internal assessment etc., are also to be considered for the



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purpose of conversion of Police personnel to Law and Order category

13. Service Conditions stipulated for the posts of Sub-Inspector of Police, Armed Reserve and Sub-Inspector of Police (Taluk) are one and the same. Both the posts are carrying the identical scale of pay. Thus, the service conditions are one and the same and in the event of conversion, there is no additional service benefits are provided. This exactly is the reason why, this Court formed an opinion that posts or status can never be claimed as a matter of right. The principles in this regard are settled by the Hon'ble Supreme Court of India in E.P.Royappa's case. Since the posts are interchangeable and certain additional criterias are prescribed for conversion to Law and Order category to maintain the efficiency in Police Administration, the assessment of ability and suitability to be made by the Competent Authorities cannot be interfered with by the High Court in a writ proceedings. In the event of any such interference, it will cause an adverse effect in maintaining the efficiency level in Police administration, more specifically, in Law and Order category."

7. In view of the principles enumerated in the judgment cited supra, this Court does not find any infirmity in respect of the order impugned, in not



considering the claim of the writ petitioner for conversion. However, if an exercise is done in future by the competent authorities, then the case of the writ petitioner may be considered, if he is otherwise qualified, along with all other eligible persons.

8. With this observations, the writ petition stands dismissed. No costs.

01.12.2022

Index : Yes / No
Speaking order / Non-Speaking order
mrn



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S.M.SUBRAMANIAM, J.

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