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W.P.No.17039 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.11.2022

CORAM :

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.17039 of 2019

R.G.Jayakumar

... 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 to issue Writ of Mandamus, to direct the 2nd respondent to consider the claim of the petitioner for appointment as Sub Inspector of Police by conversion from Armed Reserve to Taluk Police (L and O).



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For Petitioner : Mr.S.Sivakumar

For Respondents : Mr.S.Rajesh, GA

ORDER

The relief sought in the present writ petition is to direct the second respondent to consider the claim of the writ petitioner for appointment as Sub-Inspector of Police by conversion from Armed Reserve to Taluk Police (Law and Order).

2. The petitioner was directly recruited as Sub-Inspector of Police in the year 2008 through Tamil Nadu Uniformed Service Recruitment Board.

3. The grievance of the writ petitioner is that he was not considered for conversion from Armed Reserve to Taluk Police (Law and Order). In this regard, the petitioner submitted representations and the said representations were not considered by the authorities and thus, he is constrained to move the present writ petition.



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4. Conversion can never be claimed as an absolute right. The post of Sub-Inspector in the Armed Reserve Police and the Taluk Police carry an identical scale of pay and there is no change in service conditions. The conversion has been granted based on the eligibility and suitability, and therefore, it is neither a promotion nor an appointment. Conversions are granted based on the guidelines issued by the Government and assessing the service records of the individual, and these being the procedures adopted for the conversion of an Armed Reserve Police Personnel to Taluk Police, the petitioner cannot claim such conversion as a matter of right.

5. The issue regarding the conversion of Armed Reserve Police personnel to Taluk Police had been elaborately considered by this Court in ***W.P.No.9048 of 2016 dated 06.09.2022***, and its relevant paragraphs are extracted herein 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



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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 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 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.

14. The Police Personnel posted in Law and Order category have more responsibility and accountability. They have to exercise the Statutory powers directly towards the public at large and therefore, additional ability and talent is certainly essential. That exactly is the reason why, the Government thought fit and prescribed certain additional criterias for the purpose of conversion of Armed Reserve Police Personnel to Law and Order category. Since there is no change of service conditions, the conversion cannot be claimed as an absolute right.

...

16. Thus, the assessment of suitability and eligibility are the prerogative of the Competent Authorities, which cannot be interfered with by the High Court, while exercising the powers of judicial review under Article 226 of the Constitution of India. Such an interference may be required, if the power is exercised in an unfair manner or the assessment is tainted with mala fides or Favouritism and Nepotism.

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18. *High Discipline, Honesty and Integrity are the need of the hour in Police Department, more specifically, in Law and Order wing. There are large scale allegations from the public against the Police Personnel working in the Law and Order category. There are common allegations of collusion, receiving Mamul (Bribe) by the Police personnel in Police Stations and in Law and Order wing. If the Police personnel with lack of integrity is posted in Law and Order wing, then it will have a direct implication on the maintenance of Law and Order in the society. Effective control over the Law and Order wing by the Higher Police Authorities are of paramount importance and is a Constitutional mandate. The Fundamental Rights ensured under Part III of the Constitution is to be protected by the Law and Order wing of the Police Department as they are the law enforcing authority in the society.*

...

22. *Regarding the violations of Government guidelines issued for conversion by the Police Department on earlier occasions, the learned Additional Government Pleader reiterated that the respondents are following the eligibility criteria and assessment of suitability in accordance with the guidelines and certain irregularities and illegalities if at all occurred on earlier occasions, such orders will not be followed as a precedent by the Police Department, while undertaking the process of conversion to Law and Order Wing.*



...

24. *The power of judicial review of the High Court under Article 226 of the Constitution of India is to ensure the processes, through which, a decision is taken by the competent authorities in consonance with the Statutes and Rules and the guidelines issued by the Government in force, but not the decision itself. Therefore, in the absence of any violation of the Rules or guidelines issued by the Government or infringement of a right of an employee, the High Court would not issue any direction to convert any police personnel from Armed Reserve to Law and Order Wing. Such conversion is the administrative exercise to be made by the competent authorities and interference in such exercise by the High Court in a writ proceedings would cause serious repercussion in the matter of maintenance of high discipline in police force. In simple terms, High Court cannot sit as a selection authority or an authority to assess the suitability and eligibility for the purpose of effecting conversion of police personnel from Armed Reserve to Law and Order Wing. High Court cannot usurp the powers of an expert body consisting the competent Police authorities.*

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27. *In view of the facts and circumstances and the principles elaborately considered, the relief as such sought for in the present writ petitions cannot be granted and consequently, the writ petitions are devoid of merits and stand dismissed. No costs. Connected miscellaneous*



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petitions are closed.

6. In view of the judgement sited supra, the relief as such sought by the writ petitioner, seeking conversion from Armed Reserve Police to Taluk Police cannot be considered by this Court.

7. Accordingly, this writ petition stands **dismissed**. There shall be no order as to costs.

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Index : Yes
Speaking order
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To

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S.M.SUBRAMANIAM.J.,

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