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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.09.2022

CORAM:

THE HONOURABLE MR. JUSTICE PARESH UPADHYAY
and
THE HONOURABLE MR. JUSTICE D.BHARATHA CHAKRAVARTHY

W.A.No.2119 of 2022
& C.M.P.No.15775 of 2022

- 1.The Secretary to Government,
Home (Police) Department,
Fort St. George,
Chennai – 9.
- 2.The Director General of Police,
Chennai – 4.
- 3.The Deputy Inspector General of Police,
Dindigul Range,
Dindigul.

.. Appellants

Vs

- 1.V.Kalimuthu (Deceased)
- 2.M.Sakthivel (Deceased)
- 3.M.Venugopal (Deceased)
- 4.A.Ramamurthy (Deceased)
- 5.K.Mariappan
- 6.S.Irulappan
- 7.K.Nagan
- 8.K.Gurusamy
- 9.M.Murugarajan
- 10.D.Veeramani
- 11.K.Vasanth
- 12.K.Karthika
- 13.N.Menaka
- 14.S.Rajeshwari
- 15.S.Maharajan
- 16.S.Rajamanikandan
- 17.N.Balakiruthika
- 18.Amuthavalli



19.V.Idhayakrishnan
20.Padma
21.Amutha
22.V.Parthasarathi
23.R.Paranthaman
24.R.Mariraj
25.R.Thirumurugan

(R11 to R25 impleaded
vide order dated 05.08.2021)

.. Respondents

Appeal filed under Clause 15 of Letters Patent against the
order dated 08.04.2014 made in W.P.No.27793 of 2005.

For Appellants	: Mr.P.Kumaresan, Additional Advocate General assisted by Mr.A.Selvendran, Spl. Government Pleader
For Respondents	: Mr.K.Venkataramani, Senior Counsel for Mr.M.Muthappan for R5 to R13 & R20 to R22.

JUDGMENT

(Delivered by *PARESH UPADHYAY, J.*)

1. Challenge in this appeal is made to the common order dated 08.04.2014 recorded on W.P.Nos.27796, 27793, 27776 and 27775 of 2006. This appeal is by the State authorities – respondents in the writ petition.

2. There was a delay of 2147 days in filing this appeal and even according to us the explanation offered to condone that delay

could not be termed to be satisfactory, however to enable the State



to pursue their remedy on merits, we have condoned the delay and the matter is taken up for hearing on merits.

3. Learned Additional Advocate General for the appellant authorities has submitted that the writ petitioners asked for promotion, without appearing in the examination for the post of Sub Inspector of Police, which could not be permitted and the same is against the policy of the State. It is further submitted that, after filing of the writ petitions by the writ petitioners, they were already promoted as Special Sub Inspector of Police and further relief ought not to have been granted by learned single Judge. It is noted that, learned Additional Advocate General has extensively taken this Court through the reasoning recorded by learned single Judge vis-a-vis the material on record and has submitted that the appeal be entertained.

4. Learned senior advocate for the contesting respondents/ original writ petitioners/ legal heirs of the original writ petitioners has submitted that, the grievance of the writ petitioners against even condoning of delay be taken into consideration by the Court at this stage for the reason that learned single Judge has in para 8 of the order recorded that many of the persons have retired by that time. It is submitted that this appeal be dismissed.



5. Having heard learned advocates for the respective parties and having considered the material on record, this Court finds that the writ petitions were filed in the year 2005. The order under challenge is dated 08.04.2014. Many of the writ petitioners had retired during the pendency of the writ petition itself. This fact is noted by learned single Judge in para 8 of the order. The cause title of this appeal further indicates that, many of them have even died and before this Court legal heirs are attempted to be brought on record. We find that, at this belated stage, examining the sustainability of the order would be too harsh against the persons who have even died. Over and above that, while going through the order of learned single Judge we find that, when the writ petitioners, even according to the learned Additional Advocate General were already promoted as Special Sub Inspector of Police before their retirement, the contest is only with regard to effective date of promotion and any interference by this Court in no way could be termed to be for furtherance of justice and it would only result in miscarriage of justice. Keeping this in view, we find that no interference is required in the order under challenge.

6. Learned Additional Advocate General has made serious grievance with regard to para 10 of the order under challenge by contending that some errors are committed by learned single Judge.



We find that since that is attempted to be contended after about a decade, the same would lose its efficacy. The said argument is therefore rejected.

7. As a matter of record, learned Additional Advocate General has also submitted that, at least four appeals (including the present one) are filed against the order under challenge. The details thereof are being given by him to the Registry. Copy of this order shall be retained on those appeals.

8. For the reasons recorded above, and with above further directions, this appeal is dismissed. No costs. C.M.P. Would not survive.

(P.U., J) (D.B.C., J)
12.09.2022

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and
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