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W.P.No.25611 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.09.2022

CORAM

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.No.25611 of 2022

A.Elumalai

... Petitioner

Vs

1.The Director General of Police,
Chennai – 600 004.

2.The Chairman,
Tamil Nadu Uniformed Services,
Recruitment Board,
Chennai – 600 002.

3.The District Collector,
Kancheepuram District,
Kancheepuram.

4.The Superintendent of Police,
Cuddalore District.

Respondents

...

Prayer: Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus directing the respondents to consider the petitioner's representation dated 21.03.2022 to appoint him as Grade II Police Constable for the year 2003 and fix the seniority in the appropriate place in the select list of 2003 Grade II Police Constable selection with all consequential benefits.



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For Petitioner : Mr.M.S.Soundararajan

For Respondents : Mr.P.Kumaresan
Additional Advocate General
Assisted by
Ms.D.Sowmi Datta
Senior Counsel [for R2]

: Ms.P.Rajeswari
Government Advocate [for R1, 3 & 4]

ORDER

The prayer sought for herein is for a writ of mandamus directing the respondents to consider the petitioner's representation dated 21.03.2022 to appoint him as Grade II Police Constable for the year 2003 and fix the seniority in the appropriate place in the select list of 2003 Grade II Police Constable selection with all consequential benefits.

2. The petitioner in fact was selected for police recruitment for the post of Grade II Police Constable in the year 2003. However since he could not produce the community certificate or there has been some suspicion with regard to the claim made by the petitioner with regard to his community as he claimed that he belongs to Scheduled Tribe Community, the appointment could not be given and withheld it seems.



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3. In that circumstances, the petitioner approached the then functioning the Tamil Nadu Administrative Tribunal and filed Original Application which was subsequently transferred before this Court and renumbered as W.P.No.17493 of 2007.

4. In the meanwhile, with regard to the community certificate issue, the petitioner also filed another writ petition in W.P.No.34615 of 2007 which was disposed by a Division Bench of this Court by order dated 06.11.2007, where, inter alia the following observation has been made by the Division Bench.

“4.Following the said decision, we dispose of the writ petition with observation that if the petitioner is otherwise eligible to be appointed, the fact that there is some suspicion regarding the community certificate, which is yet to be cancelled, shall not stand in the way of issuing the appointment order. It is however made clear that such appointment shall be subject to the result of the scrutiny regarding the validity of the community certificate by the State Level Scrutiny Committee and if ultimately it is found that the petitioner does not belong to Kattunaikan community, obviously it is open to the concerned authority to take appropriate action in accordance with law.”



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5. Subsequently, the said writ petition, which was converted from the Original Application No.1521 of 2004 before this Court, was disposed by a learned Judge by order dated 07.06.2011, where, the following observation has been made.

“9.The fact remains that the petitioner had participated in the subsequent selection held in the year 2007 and selected for the post of Grade II Police Constable, despite the dispute over the community certificate before the State Level Committee. The issue as to whether the petitioner belongs to ST community and entitled to be selected in the said category, has to be decided only after the scrutiny of the State Level Committee. The seniority of the petitioner on par with Grade II Police Constables recruited in the year 2003, cannot be decided in this writ petition. However, it is open to the petitioner to ventilate his grievance regarding the seniority before the authority competent, if so advised.”

6. Therefore the fact remains that, apart from the 2003 selection, the petitioner also participated in the subsequent police selection in the year 2007 and he was selected so in the said selection also this was taken note of by the learned Judge and he has observed that, insofar as the



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claim made by the petitioner for claiming seniority pursuant to the selection made in 2003 is concerned, that could be decided by the authorities concerned only after the genuinity of the community certificate of the petitioner is decided in favour of the petitioner. Therefore, in this regard an observation has been made by the learned Judge in para 9 of the order as stated supra that, subsequently in case the petitioner has got a favourable order from the authorities concerned with regard to the genuinity of his community certificate, he can ventilate his grievances with regard to the claim of the petitioner for seniority from 2003 before the authorities concerned and who has to decide the same. Only in that circumstances, now the petitioner has given a representation to the respondents on 21.03.2022 stating that the State Level Scrutiny Committee on 11.02.2022 has confirmed the community status of the petitioner that means the genuinity of the community certificate of the petitioner, therefore he has given a said representation to the 1st respondent to consider his claim to fix his seniority by taking into account of his selection made in the year 2003 and accordingly confer the service benefits. In order to consider the said representation of the petitioner, he has filed the present writ petition with the aforestated prayer.



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7. Reiterating the aforestated, Mr.M.S.Soundararajan, learned counsel appearing for the petitioner would submit that, if a direction is given to the 1st respondent to consider the representation of the petitioner and pass orders on merits and in accordance with law within a time frame that may be stipulated by this Court, the petitioner would be satisfied.

8. Heard Mr.P.Kumaresen, learned Additional Advocate General appearing for the 2nd respondent and Ms.P.Rajeswari, learned Government Advocate appearing for respondents 1, 3 and 4.

9. The learned counsel for the respondents would submit that, the petitioner had been selected though in the year 2003 subsequently he participated in the year 2007 selection where also he got selected and accordingly appointed as Police Constable and insofar as the 2003 selection is concerned, for want of production of community certificate or in order to verify the genuinity of the community certificate produced by the petitioner pursuant to the 2003 selection, since the petitioner has not been appointed whether he can claim the seniority from 2003 that has to be decided only by the 1st respondent and in this regard, the representation submitted by him dated 21.03.2022 would be considered



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and decided by the 1st respondent in accordance with law.

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10. Having regard to the said submission made by the learned counsel appearing for both sides and considering the factual matrix as projected, this Court is inclined to dispose of this writ petition with the following orders:

That there shall be a direction to the 1st respondent to consider the representation of the petitioner dated 21.03.2022 and pass orders on merits and in accordance with law within a period of eight weeks from the date of receipt of a copy of this order.

11. With this direction, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions is closed.

23.09.2022

Index: Yes/No

Speaking Order : Yes/No

Sgl



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R. SURESH KUMAR, J.

Sgl

To

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