



WEB COPY

WA(MD)No.703 of 2011

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **30.03.2022**

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

and

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.A(MD)No.703 of 2011

and

M.P.(MD)No.1 of 2011

K.Michel

... Appellant / Petitioner

Vs.

1.The Inspector General of Police,
Inspector General Office,
South Zone,
Madurai.

2. The Deputy Inspector General of Police,
Deputy Inspector General Office,
Tirunelveli.

3. The Superintendent of Police,
Kanyakumari District,
Nagercoil.

...Respondents/Respondents

PRAYER : Writ Appeal filed under Clause 15 of the Letters Patent praying this Court to set aside the order passed in W.P(MD)No.2104 of 2008, dated 27.06.2011 and direct the third respondent to fix the seniority of the appellant below the name of his batchmates if any with reference to his date of appointment.

Prayer in WP(MD). 2104/ 2008 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorarified Mandamus, to call for the records relating to the proceedings of the 3rd respondent vide D.O.175/2008, N3/53384/1227/2007 dated 15.2.2008 and quash the same and consequently direct the 3rd respondent to fix the seniority of the petitioner below the name of his batchmates if any with reference to his date of appointment.

For Appellant : Mr.B.Brijesh Kishore

For Respondents : Mr.J.K.Jeya Seelan
Government Advocate



JUDGMENT

R. SUBRAMANIAN, J.

AND

N. SATHISH KUMAR, J.

The petitioner challenges the dismissal of the writ petition, in which, he sought for a writ of Certiorarified Mandamus to quash the proceedings, dated 15.02.2008 fixing the seniority at a particular place and for a direction to refix the seniority below the name of his batch mates, with reference to his date of his appointment.

2. The following facts are not in dispute :

The petitioner joined as a Grade-II Police Constable on 01.03.1986, he was promoted as a Grade-I Police Constable on 07.02.1989 and as a Head Constable on 25.04.1989. He was reverted as a Grade-I Police Constable on 31.08.1989 for want of vacancy in the promoted post. Again, he was re-promoted as Head constable on 01.03.1991. The petitioner was working in Tuticorin District, was transferred to Chennai City Police on 30.09.2005. Upon his request, he was again transferred to Tuticorin District on 08.02.2007 and again transferred to Kanyakumari District on 23.07.2007. After his transfer to Kanyakumari District, the respondent fixed the seniority by order, dated 15.02.2008, the petitioner was below Head Constable Benedict Raj and above Head Constable Neelavadiwoo. It is this order, which was sought to be challenged by the petitioner.

3. The Writ Court had found that the fixation of the seniority of the petitioner is just and proper. Inasmuch as he had sought for transfer to Tuticorin and he has relinquished his seniority. The Writ Court adverted to Rule 25 of Tamil Nadu Police Subordinate Service Rules, which provides that the seniority of Head Constable to be maintained at a range level and if a Head Constable is transferred from one District to another District, his name shall be placed below the name of his batch-mates with reference to the date of his appointment. The writ Court found that the Rule 25 has been adhered to by the Department.

4. The claim of the petitioner that the Benedict Raj, with whom the petitioner was placed, is junior to him, was not established. The petitioner, however, attempted to claim that some of his batch-mates in Tuticorin were promoted in the year 2006 and therefore, he should be given the said benefit. The petitioner was admittedly working in Chennai, during the relevant period i.e., in the year 2006, the Writ Court therefore, repelled his contention on the ground that he could claim parity only with Head Constables working in Chennai and not with those in other Districts.

5. Mr.B.Brijesh Kishore, learned counsel for the appellant contend that the writ Court must have seen that the



seniority fixed after Benedict Raj is not proper. Since the petitioner was promoted as a Head Constable even on 25.04.1989.

6. We are unable to agree with the said contention of the learned counsel. The writ Court had found that the fixation of seniority is in accordance with Rule 25(b) and the petitioner has relinquished his seniority when he sought for transfer from Chennai to Tuticorin. The order impugned in the writ petition also refers to the proceedings, dated 23.07.2007, wherein, it is found that he was transferred from Tuticorin to Kanyakumari District, after forgoing his seniority, having not challenged the order, dated 23.07.2007, the petitioner cannot now be heard to contend that the seniority should be fixed above his batch-mates considering his appointment as Head Constable on 25.04.1989.

7. We therefore, see no merit in the Writ Appeal and hence the Writ Appeal fails and accordingly the same is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

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/ /2022

Sub Assistant Registrar(CS)

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To

- 1.The Inspector General of Police,
Inspector General Office,
South Zone,
Madurai.
2. The Deputy Inspector General of Police,
Deputy Inspector General Office,
Tirunelveli.
3. The Superintendent of Police,
Kanyakumari District,
Nagercoil.

+1 CC to M/s.SPL GP (SR-15729[F] dated 31/03/2022)

W.A(MD)No.703 of 2011
30.03.2022

RK(13/04/2022) 3P 5C