



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.02.2022

CORAM

THE HONOURABLE MRS.JUSTICE **S.SRIMATHY**

W.P. (MD)No.4000 of 2015

and

M.P. (MD)Nos.1 and 2 of 2015

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N.Alagumuniyandi

... Petitioner

vs.

1.The Additional Director General of Police,
Technical Services,
Police Tele Communication Office,
Mylapore, Chennai 600 004.

2.Deputy Inspector General of
Police, Technical Services,
Police Tele Communication Office,
Mylapore, Chennai 600 004.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records of the 2nd respondent made in RC.No.A1/11/728/2015, dated 12.03.2015, rejecting the claim of the petitioner and to quash the same as devoid of merits and consequently to direct the respondents to give promotions as per the eligibility and the seniority in the technical services and also give monitory benefits according to that based on the revision submitted to the 1st respondent, dated 14.03.2015, within the time stipulated by this Court.

For Petitioner :Mr.A.Jayaramachandran

For Respondents :Mr.N.Ramesh Arumuga
Government Advocate (Civil side)

O R D E R

This Writ Petition is filed for issuance of a Writ of Certiorarified Mandamus, to quash the impugned order in RC.No.A1/11/728/2015, dated 12.03.2015 and consequently to direct the respondents to give promotions as per the eligibility and the seniority in the technical services and also give monitory benefits according to that based on the revision submitted to the 1st respondent, dated 14.03.2015, within the time stipulated by this Court.

2. The brief facts of the case are that the petitioner was appointed as Grade II Police Constable on 30.07.1989 and was given deputation to the Technical Services in Tele Communication Branch,



Chennai. The basic qualification to become Grade I Police Constable in Technical Services, as per Adhoc rules is "No constable in the Police Radio Branch shall be eligible for promotion to the category of Lance Naik in the same branch unless,

- a) He has studied upto SSLC and possesses a working knowledge of English.
- b) He has a good handwriting.
- c) He has at least two years of police experience. This qualification may however be relaxed in special cases and
- d) He is a qualified II class Operator as prescribed in Annexure-IV.

3. The contention of the petitioner that he is fully qualified to become Grade-I Police constable when he had passed the HF - II class Test as per the order in A2/3195/95, D.O. No. 178 / 95 dated 04.04.1995 and 23.02.1995. The Rule No. 11 of the Adhoc Rules - Tamil Nadu Public Service Police Radio Branch Subordinate Officers reveals that,

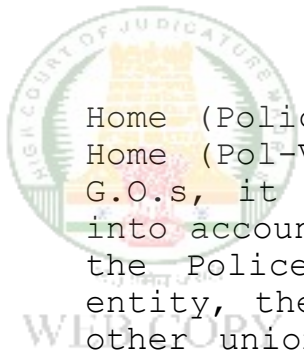
11. Preparation of annual lists of approved candidates for appointment by promotion

- a. Date on which the candidate should possess the prescribed qualifications required for the post according to the rules is 31st August*
- b. Date of estimate of vacancies is 10th September*
- c. Date of calling for recommendation rolls from subordinates is 10th October*
- d. Date by which the list should be issued and communicated is 10th January*

The contention of the petitioner is that the seniority list for every promotion should be prepared every year. He had passed the test on 23.02.1995 and if the authorities prepared the seniority list for the promotion of Grade - 1 Police Constable for the year 1995-1996, his name would be included in the said list and he would be promoted. The seniority list for the promotion of Grade I Police Constable was not prepared for the year 1995-1996, 1996-1997, 1997-1998 and the list was prepared for the year 1998-1999 but his name was not included and for the subsequent year 1999-2000, his name was included in Serial No. 17 and he was promoted as Grade I Police Constable with effect from 29.06.1999. The contention of the petitioner is that since he has passed on 23.02.1995, he should be considered for promotion. In view of the above mistake, his juniors were promoted. Aggrieved over the same, the present Writ Petition is filed.

4. The second respondent filed a counter affidavit stating that the panel was drawn to the seniority maintained in the Police Tele Communication Branch as per the guidelines issued in G.O.Rt.No.2987,

<https://hcservices.ecourts.gov.in/hcservices/>



Home (Police-VIII) Department, dated 04.08.1980 and G.O.Rt.No.3966, Home (Pol-VIII) Department, dated 17.10.1980. As per the said two G.O.s, it is clarified that the seniority will be fixed by taking into account, the date of joining in the Police Radio Branch. Since the Police Radio Branch has already been declared as separate entity, the persons who joined Police Radio Branch on approval from other union should take their seniority below that of the junior most in the Police Radio Branch. The petitioner is the junior most and therefore, the petitioner has been kept in appropriate place. The petitioner would be promoted as Inspector of Police as and when his turn comes.

5. Heard Mr.A.Jayaramachandran, learned Counsel appearing for the petitioner and Mr.N.Ramesh Arumuga, learned Government Advocate appearing for the respondents.

6. The contention of the petitioner is that his appointment in the post of Grade II Police Constable is on 30.04.1989 and he was transferred to the Tamil Nadu Police Tele Communication Branch on a subsequent date. The petitioner claims seniority from the date of appointment as Grade II Police Constable. But, the contention of the respondents is that since the Tamil Nadu Tele Communication Branch is considered as a separate entity and the date of joining the said Branch will be taken into account as the date of appointment. To this effect, already a G.O. is passed in G.O.Rt.No.2987, Home (Police-VIII) Department, dated 04.08.1980.

7. Any employee if transferred from one unit to another unit, or if transferred from one department to another department, then the employee would be kept as junior most in the seniority list in the transferred place and this is the cardinal principle in the service jurisprudence. In the present case the aforesaid G.O.s explicitly states so and the respondents are following the said G.O from 1980 onwards. If the petitioner's contention is accepted then, the settled issue will be unsettled, which is against the Service Rules. Therefore, this Court is of the considered opinion that the issue is settled based on aforesaid G.O. and the petitioner is not entitled to seniority from the earlier unit.

8. The second contention of the petitioner is that since he has passed the HF II Class Test on 23.02.1995 itself, he should be considered for the promotion ahead of others. The said contention cannot be accepted, since the date of pass is one of the qualifications. If the petitioner is qualified, then he will be coming into the zone of consideration. The promotion will be granted, based on qualification, experience seniority and other conditions. Thereafter, based on vacancy only each and every person will be granted promotion. The promotion is not a right but consideration for promotion is a right. The respondents have considered the petitioner's case and has promoted as Inspector of Police on 23.05.2018. The petitioner has not made up any case for interfering in the impugned order.



9.Hence, the Writ Petition is dismissed. No costs.
Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-I)

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Sub Assistant Registrar(CS)

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Note:

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.

To

1.The Additional Director General of Police,
Technical Services,
Police Tele Communication Office,
Mylapore, Chennai 600 004.

2.Deputy Inspector General f
Police, Technical Services, Police Tele
Communication Office,
Mylapore, Chennai 600 004.

+1 CC to M/s.SPL GP (SR-8076[F] dated 23/02/2022)

W.P.(MD)No.4000 of 2015

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RK(08/04/2022) 4P 4C