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W.P.(MD)Nos.22239 to 22242 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.11.2022

CORAM

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

W.P.(MD)Nos.22239 to 22242 of 2016

W.P.(MD)No.22239 of 2016:

A.Tamilarasan

... Petitioner

vs.

1.The Director General of Police,
Kamarajar Salai,
Mylapore, Chennai-600 004.

2.The Superintendent of Police,
Virudhunagar District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to direct the 1st respondent to include the petitioner's name in the selection list for the year 1992-93 along with his batch-mates recruited in the year 1992-93 with due seniority and award all consequential service benefits on the basis of the earlier orders of the Madras



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High Court in W.P.Nos.41271, 41272 and 41273 of 2006, dated 25.02.2011 and the implementation order by the department in D.O.No.208 of 2016, in C.No.A3/9533/2015, dated 07.03.2016.

W.P.(MD)No.22240 of 2016:

P.Ramesh

... Petitioner

vs.

1.The Director General of Police,
Kamarajar Salai,
Mylapore, Chennai-600 004.

2.The Superintendent of Police,
Theni District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to direct the 1st respondent to include the petitioner's name in the selection list for the year 1992-93 along with his batch-mates recruited in the year 1992-93 with due seniority and award all consequential service benefits on the basis of the earlier orders of the Madras High Court in W.P.Nos.41271, 41272 and 41273 of 2006, dated 25.02.2011 and the implementation order by the department in D.O.No.208 of 2016, in C.No.A3/9533/2015, dated 07.03.2016.



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W.P.(MD)No.22241 of 2016:

S.Singappuli

... Petitioner

vs.

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W.P.(MD)No.22242 of 2016:

K.Rajendran

... Petitioner

vs.

1.The Director General of Police,
Kamarajar Salai,
Mylapore, Chennai-600 004.

2.The Superintendent of Police,
Virudhunagar District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to direct the 1st respondent to include the petitioner's name in the selection list for the year 1992-93 along with his batch-mates recruited in the year 1992-93 with due seniority and award all consequential service benefits on the basis of the earlier orders of the Madras High Court in W.P.Nos.41271, 41272 and 41273 of 2006, dated 25.02.2011 and the implementation order by the department in D.O.No.208 of 2016, in C.No.A3/9533/2015, dated 07.03.2016.

In all cases:

For Petitioner : Mr.A.Rajaram
For Respondents : Mr.P.Thambidurai
Government Advocate



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COMMON ORDER

The writ petition in W.P.(MD)No.22239 of 2016 is filed for issuance of a writ of Mandamus, to direct the 1st respondent to include the petitioner's name in the selection list for the year 1992-93 along with his batch-mates recruited in the year 1992-93 with due seniority and award all consequential service benefits on the basis of the earlier orders of the Madras High Court in W.P.Nos.41271, 41272 and 41273 of 2006, dated 25.02.2011 and the implementation order by the department in D.O.No.208 of 2016, in C.No.A3/9533/2015, dated 07.03.2016.

2.The brief facts as stated in the affidavit filed in W.P.(MD)No.22239 of 2016 are that the petitioner is now serving as Head Constable of Police. The petitioner appeared for enlistment of Police Constable conducted by the Tamil Nadu Uniformed Service Recruitment Board in the year 1992-1993 and passed the relevant tests such as written test, physical efficiency test and oral test and completed. He also completed medical examination and police verification. The petitioner was one among the 10376 persons selected by TNUSRB. Out of 10376



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persons, 10000 persons were enlisted in different batches on 09.06.1993, 16.06.1993, 16.03.1994, 01.03.1995 and 31.10.1995. While 376 persons are eagerly waiting for getting enlisted as Police Constable, without enlisting them, further recruitment was conducted in the year 1995-1996. Subsequently, another recruitment was conducted in the year 1999. However, 376 Police Constables were left behind without any appointment orders. Finally, they were included on 15.05.2000.

3. The contention of the petitioner is that three persons from Cuddalore District, who belong to the batch of 1992-1993 were enlisted on 01.03.2002 and they were revised and granted enlistment on 01.11.1995. Hence, the petitioner's name has to be considered and granted enlistment from the year 1991-1992. The petitioner submitted that atleast they should be considered for the purpose of seniority and prayed to allow the writ petition.

4. The issue of recruitment under 1992-1993 batch was considered by this



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Court in W.P.(MD)Nos.19655 and 19656 of 2017, vide order, dated 07.07.2022, declined the claim of the petitioners and the relevant portion of the order is extracted here under:

“6. The said 376 candidates after they have been taken service have submitted several representations, in which, one Krishnakumar and Balamurugan have submitted a representation and also filed a writ petition. In the said writ petition, this Court directed the respondents to consider the representation and pass orders. The respondents had passed a detailed order vide order, dated 08.11.2016, in which, it has been clearly stated that the said 329 candidates were allowed to contest in the recruitment and they were found not eligible. In the selection process for the year 1992-93, the vacancy was shown as 10,000 posts and the respondents have taken all the 10,000 posts. For 379 vacancies reserved for SC/ST candidates, since there were no candidates for SC/ST, the said vacancies were considered as backlog vacancies and were carry forward in the subsequent years and were filled up in the subsequent recruitment process conducted in the year 1995-96. The petitioners have claimed that since the SC/ST candidates were not available. the names of the petitioners ought to be considered in the backlog vacancies and they should be granted appointment order in the said vacancies. Since in the subsequent recruitment process for the year 1995-96, the said backlog vacancies earmarked for SC/ST candidates were filled up, in the said circumstances, there is no available vacancy at all. From 1992-93 onwards the said 376 candidates had repeatedly represented before the authority and various forums to consider their cases, but the same was declined for want of vacancy, moreover the said 376 persons were considered as not eligible on merits. During the year 1999-2000, the Government has considered the plea of the 376 candidates and from 376 candidates, 329 candidates were found eligible and were taken into service. However, the said concession



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was granted to 329 candidates on condition that their appointment would be from 15.05.2000 onwards and they cannot claim any seniority from the year (1992-93 and the said 329 candidates have accepted the same and executed an undertaking letter and thereafter, they have joined the service. Having accepted so, now the petitioners cannot go back and seek seniority from the year 1992-1993.

7. The learned Additional Advocate General has produced G.O.Ms.No.1399, dated 01.10.1999, wherein, under Clause 6, it has been clearly stated that these 329 candidates shall be subjected to police verification again. Their seniority will be reckoned by placing them below the 4000 Grade II Police Constables (men) selected during 1997-98 recruitment. The respondents have also circulated a model form of appointment order.

8. The petitioners are seeking to keep the seniority in the 1992-1993 batch. If this plea is accepted, then the petitioners would be granted seniority even before the petitioners joined the service. All the monetary benefits and service benefits would follow from the date of appointment and not prior to the appointment and granting service benefits even without appointed in the service is absolutely illegal and unknown to service jurisprudence. Moreover, Cthis will definitely affect the seniority rights of the subsequent appointees and WP(MD)Nos.19655 and 19656 of 2017 would leading to unnecessary litigation until their service period.

9. Taking all these factors into consideration, especially, the sympathetic approach of the Government, this Court is of the considered view that the petitioners cannot claim any seniority from the batch of 1992-93. Now, the Government has relaxed the said condition and has also granted age relaxation and has appointed them in the year 1997-98. Having accepted the appointment order without any protest, now the



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petitioners cannot come forward with a plea to consider them in the batch of 1992-93. Hence, the writ petitions fail and impugned order is legally sustainable.”

5. The present writ petitioners are claiming the same relief as claimed in the aforesaid writ petition. Since this Court has declined to grant relief as stated supra, the present writ petitioners also are not entitled to any relief. With the above said observation, the writ petitions are dismissed. No costs.

Index : Yes / No
Internet : Yes

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