



W.P.No.13152 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.07.2023

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.13152 of 2013

A.Kandasamy

...Petitioner

-Vs-

1. The State of Tamil Nadu,
Rep. by its Secretary,
Home (Police) Department,
Fort St. George,
Chennai – 600 009.

2. The Director General of Police,
Law and Order,
Chennai – 600 004.

3. The Superintendent of Police,
Railways, Egmore,
Chennai – 600 008.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records of the third respondent in Rc.No.B2/7203/2012 dated 06.11.2012 quash the same as illegal and consequently direct the respondents to fix the pay of the petitioner equivalent to junior Eswaran HC 1434.



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For Petitioners : S.Baskaran

For Respondents : Mr.V.Veluchamy
Additional Government Pleader

ORDER

This writ petition has been filed challenging the order dated 06.11.2012, passed by the third respondent in Rc.No.B2/7203/2012, thereby rejecting the request made by petition seeking re-fixation of pay on par with his junior one Eswaran HC 1434

2. The writ petitioner joined the Tamil Nadu Police service as Grade II, category I Constable on 05.09.1977. Subsequently, he was promoted as Grade I Head Constable and his basic pay was fixed as Rs.4,200/-. Again the petitioner was promoted as Special Sub Inspector of Police and his salary was fixed as Rs.11,450/-. Thereafter, he was retired from service in the month of November, 2012 as Special Sub Inspector of Police.

3. The grievance of the petitioner is that one junior to him viz., Easwaran was appointed as Special Police Grade II Category III Constable in the year 1981. Later in the year 1983, he transferred from



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Grade II Category II to Category II as Constable. Later he was promoted and transferred to the Head Constable. However, his basic pay was fixed at Rs.5,800/-, whereas the petitioner's basic pay was fixed at Rs.4,200/-. Therefore, the petitioner made request to the third respondent to re-fix his pay and the same was rejected by the impugned order. Hence the petitioner filed this present writ petition with the above said prayer.

4. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

5. With similar request, another persons had filed writ petitions in W.P.No.9527 & 9528 of 2006 and the same were allowed by this Court an order dated 13.09.2010. Aggrieved by the same, the respondents filed writ appeals in W.A.Nos.398 & 399 of 2013. The Hon'ble Division Bench of this Court allowed the writ appeals and observed that while implementing the common order passed by the Tribunal in O.A.Nos.10317 of 1997 batch dated 06.04.2004, the Government passed a government order in G.O.Ms.No.637, Home (Pol.IX) Department dated 03.08.2009 and as per the said G.O., the learned single Judge allowed the writ petitions. However, in the said



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G.O., it is very clear that in future, it should be indicated to the persons, who are opting for transfer that they shall be paid salary benefit in the lower ranking persons. Therefore, the Hon'ble Division Bench set aside the order passed by the learned single Judge and dismissed the writ petitions.

6. Further, the petitioner was appointed as Special Sub Inspector of Police and enlisted in Railway Police in the year 1977. Whereas the said Eswaran was recruited in the year 1979 in the Tamil Nadu Special Police Battalion and later transferred to Armed Reserved as Gr.II Police Constable. He was promoted in the Tamil Nadu Special Police Battalion and his pay was fixed at the appropriate stage as applicable to the promoted post viz., Naik and Havildar in Tamil Nadu Special Police Battalion.

7. That apart, the pay cannot be re-fixed on par with junior, since the service rules for appointment is different from one another viz., the Tamil Nadu Special Police Personnel are appointed under Tamil Nadu Special Police Subordinate Service, whereas the District Armed Reserve Police Personnel are appointed under Tamil Nadu Subordinate



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Service Rule. Therefore, the petitioner is not eligible for re-fixation of pay and hence, the third respondent rightly rejected the request made by the petitioner. This Court finds no infirmity or illegality in the order passed by the third respondent and the writ petition is liable to be dismissed.

8. Accordingly, the Writ Petition stands dismissed. There shall be no order as to cost.

25.07.2023

Internet: Yes

Index : Yes/No

Speaking/Non Speaking order

rts

To

1. The Secretary,
State of Tamil Nadu,
Home (Police) Department,
Fort St. George,
Chennai – 600 009.



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2. The Director General of Police,
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