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W.P.No.881 of 2008

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.08.2023

CORAM:

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

W.P.No.881 of 2008

M.P.No.1 of 2008

C.Periyasamy

...Petitioner

-Vs-

1. The Tamil Nadu Government,
Rep. by its Secretary,
Home Department,
Secretariat,
Chennai – 600 009.

2. The District General of Police,
Office of the Director General of Police,
Mylapore,
Chennai – 600 004.

... Respondents

Prayer: Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records of the second respondent herein made in Rc.No.12585/NGB VII(2)/2007 dated 19.04.2007 quash the same and direct the respondents herein to give benefits to him as prayer for in his representation dated 26.02.2005.



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For Petitioner : Ms.Haritha

For Respondents : Mr.L.S.M.Hasan Fizal
Additional Government Pleader

ORDER

The writ petition has been filed challenging the order dated 19.04.2007 passed by the second respondent herein in Rc.No.12585/ NGB VII(2)/2007, thereby rejecting the request made by the petitioner to confer the benefits for their service in the task force (jungle patrol) on the ground that the petitioner did not satisfy the norms followed for conferring the benefits.

2. The petitioner had joined in the Tamil Nadu Police Service in the year 1984. He had worked in the task force (jungle patrol) formed for arresting sandal wood smuggler Veerappan from the period of 1989 to 1992. The petitioner number is H.C.161 and previously he was a Police Constable as P.C.131. The task force was involved in searching operation of sandal wood smuggler Veerappan across three southern States. The task given to the force is to arrest the sandal wood smuggler Veerappan and his associates, who were involved in smuggling of sandal wood, kidnapping, killing of elephants and wild animals and other



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criminal activities. There was a formation of combing operation under one Baskara Rao, Police Superintendent and Kalimuthu, Deputy Inspector General and Sylendrababu, Additional Superintendent of Police, formed into several groups went for searching Veerappan. While exchange of fires, two person belonging to Veerappan Gang was shot. The said incident was registered in Crime No.1 of 1990 on the file of the JRS Puram Police Station, Sathyamangalam, Erode, on 03.01.1990.

3. In the month of January 1990, Task Force which is known a Jungle Patrol Party was formed and 40 Police personnel under the head of K.Gopalakrishnan by Durai, Director General of Police and Devaram, Inspector General of Police. In the above said Task Force, following incident were taken place from the period 1990 to 1993.

(i) Near Siluvaikal 180 ton of Sandal Wood were seized from sandalwood smuggler Veerappan gang and confiscated to the Government and sandalwood smuggler Veerappan associate Raja was killed in the encounter at Karathumedu.

(ii) Thappakarai Mathayan a very close associate of sandalwood smuggler Veerappan was shot dead on 29.04.1990 at 5.30 a.m., by the



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force and the case was registered in Crime No. 153 of 90 at Kolathur Police Station. The above said incident was taken place for several hours at early morning.

(iii) In the year of 1990, one of the notorious gang members of sandalwood smuggler Veerappan gang Ayyadurai was captured alive at forest area of Dharmapuri.

(iv) Sandalwood smuggler Veerappan gang member Anthoni Raj was shot dead at Megamalai Kolathur.

(v) In the year of 1993, while searching for Sandalwood Smuggler Veerappan at Karnataka border due to trigger of landmine by the sandalwood smuggler Veerappan gang in Surakamedu where the five Police Personnel and 15 informers were killed.

4. The above said incidents were taken place from the period of 1989 to 1993. In all the above said incidents, the task force police personnel leaving their family putting high risk on their life was serving the State police. The police personnel who had given award of accelerated promotion and cash were the participants of the above said operation and encounter cases whereas the petitioner was also



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participated in the above said operations against forest brigand Veerappan by risking or safety and with threat to his precious life. The petitioner also took part in crime No.1 of 1990, encounter and operations of the special task force.

5. In the meanwhile, the special task force led by Vijayakumar, I.P.S., killed the forest brigand Veerappan and his gang members on 18.10.2004. Immediately, the government of Tamil Nadu passed a government order conferring lots of benefits and promotions to the police personnel who took part in the operation and special task force during the period 1990-1993, in G.O.Ms.No.1346 dated 06.12.2004. Subsequently, another order was passed in G.O.Ms.No.153, whereby benefits and promotions were conferred to all the police personnel who had taken part in the special task force, since it was formed at various period.

6. The petitioner also submitted his representation dated 26.02.2005 claiming benefits and promotion as per the above government order. However, it was rejected on the ground that the



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petitioner did not satisfy the norms followed for conferring accelerated promotion and case rewards, since the petitioner did not play any significant role in the operations against Veerappan. Aggrieved by the same, the petitioner filed this present writ petition with the above said prayer.

7. Heard the learned counsel appearing on either side and perused the material placed before this Court.

8. On perusal of the counter filed by the respondent revealed that the petitioner had served in the jungle patrol to nab the forest brigand Veerappan and his gang from the year 1989 to 1993. However, the petitioner is not even cited as a witness in this case. The petitioner did not play any active role during any operation. There is nothing on record to show that he was a member of the police party involved in the encounter. If he had participated actively in that operation, he would have highlighted his participation in detail in the above said operation. He was one among the 120 police personnel of the jungle patrol party in the month of January 1990 and he had not even opened fire during the course of any operation.



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9. Further the learned Additional Government Pleader appearing for the respondent submitted that the request for granting of accelerated promotion for all those police constables who involved in the search operation against sandalwood smuggler forest brigand Veerappan and his gang is no longer *res integra*, since the said issue has already been decided by a Division Bench of this Court in W.A.Nos.849 to 854 of 2010 by judgment dated 05.04.2013.

10. Further the said decision has been duly followed by this Court in W.P.No.4203 of 2015 dated 21.02.2018. The relevant portion is extracted here under :

"4. I also find merits on the submissions made by the learned Additional Advocate General for the respondents. Since the issue as to whether the police personnel is entitled to get any accelerated promotion, while challenging the deletion of paragraph-5(e) in G.O.Ms.No.1252, Home (Pol.VIII) Department dated 29.10.2004 and in G.O.Ms.No.1346, Home (Pol.VIII) Department dated 6.12.2004, as clarified in G.O.Ms.No.1396, Home (Pol.IA) Department dated 3.10.2007, has been already decided by this Court holding against the said request that no police personnel is entitled



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to get any accelerated promotion against the statute, in W.P.Nos.35716 of 2008 etc., batch dated 14.10.2009 and confirmed by the Hon'ble Division Bench in W.A.Nos.849 to 854 of 2010 dated 5.4.2013, which orders have been followed by me in a batch of writ petitions in W.P.Nos.17534 and 18725 of 2013 etc., batch (S.Prabakaran v. State of Tamil Nadu represented by its Principal Secretary to Government, Home Department and others) dated 21.12.2017, the petitioner is not entitled to get the benefit of accelerated promotion. The relevant paragraphs of the order dated 21.12.2017 passed by me read as follows:-

“7. Again, the entire gamet of the issue was taken up and after elaborate discussion made by both sides, the Hon'ble Division Bench confirmed the order passed by the learned Single Judge, making it clear that the accelerated promotion given by issuing a Government Order by the Government is notbased on any statutory rule. On this core, it is further held that executive instructions cannot override the statutory rules. If the accelerated promotees are given seniority in the higher cadre, it will affect the promotion of the person senior to the accelerated promotees in the lower cadre and it will lead to the situation of reduction of rank of their seniors in the lower category and the same is contrary to General Rule 35[a] and 35[aa]. As a result, the natural justice will also affect



the morale of the entire police force.

8. *The Hon'ble Apex Court in **Govind Prasad Vs. R.G.Prasad and Others** reported in [1994(1) SCC 437] held that executive order cannot be made operative with retrospective effect. By following the said judgment, the Hon'ble Division Bench of this Court in the above referred cases has confirmed the order passed by the learned Single Judge of this Court by reiterating the same legal position that the executive power of the State cannot be exercised in the field which is already occupied by the laws made by the legislature.*

9. *In view of the above, G.O.Ms.No.1396, Home (Pol.IA) Department, dated 03.10.2007, was issued deleting paragraph No.5(e) in G.O.Ms.No.1252, Home Department, dated 29.10.2004, as a result, G.O.Ms.No.1346, Home (Pol.VIII) Department, dated 06.12.2004, has been upheld reiterating the power of the State Government that the Government is well within its power in deleting paragraph No.5(e) in G.O.Ms.No.1252, Home (Pol.VIII) Department, dated 29.10.2004 and this has been clarified in G.O.Ms.No.1396, Home (Pol.IA) Department, dated 03.10.2007.*

10. *Subsequently, the Government have also come forward with a Notification dated 14.12.2013 by carrying out the amendment to the Special Rules giving retrospective effect from 19.03.1996 in G.O.Ms.No.550,*



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Home (Pol.2) Department, dated 24.07.2013. Aggrieved by the same, other police officers have filed Writ Petition Nos.24461, 26276 and 26365 of 2013, whereby, the learned Single Judge of this Court has granted interim stay of the above referred Notification on 29.08.2013. Thus, the net result is that the order passed by the Hon'ble Division Bench in W.A.Nos.849 to 854 of 2010 has been made absolute now.”

11. In view of above discussions, this Writ Petition is no longer *res integra* and decided against the petitioner. Therefore, the petitioner is not entitled to get any benefits under the above G.Os. This Court finds no infirmity or illegality in the order passed by the second respondent and the writ petition is liable to be dismissed.

12. Accordingly, the writ petition stands dismissed. Consequently, connected miscellaneous petition is closed. There shall be no order as to cost.

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Internet: Yes
Index : Yes/No
Speaking/Non Speaking order
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G.K.ILANTHIRAIYAN. J.

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