



W.P.No.30094 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Dated : 03.01.2023

Coram:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P.No.30094 of 2012

P.Manikandakumar

... Petitioner

Vs.

- 1.The State of Tamil Nadu
rep. By its Secretary to Government
Home Department
Fort St.George, Chennai-600 009
- 2.The Director General of Police
Chennai-4
- 3.The Additional Director General of Police
Armed Police, Kilpauk
Chennai-10
- 4.The Chairman
Armed Police Promotion Board
O/o the Additional Director General of Police, Kilpauk
Chennai-10
- 5.The Secretary
Tamil Nadu Public Service Commission
Chennai-2

...



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Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the respondents to promote the petitioner as Assistant Commandant (Category 3) by taking into account the date of his promotion to the post of Inspector (Radio Telegraphy) i.e. 18.03.2005 in accordance with law without getting influenced by the amendments issued to the rules in G.O.Ms.No.734 Home (Police-1) Department dated 08.11.2022 as the same had not been given retrospective effect, with all service and monetary benefits.

For Petitioner : Mr.S.Selvathirumurugan

For Respondent : Mr.T.Arunkumar, Addl Govt.Pleader
for R1 to R4
Mr.N.S.Nandakumar for R3.

ORDER

This Writ Petition is filed for a direction to the respondents to promote the petitioner as Assistant Commandant (Category 3) with retrospective effect and with all service and monetary benefits.

2. It is averred in the writ petition that the petitioner is claiming the



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benefit of G.O.Ms.No.1710 dated 23.11.2007 for placing petitioner's name in the seniority list above the names of his juniors. According to him, even though the post of Assistant Commandant Category 3 is a common post, the inspectors working in Tamil Nadu Special Police are denied promotions. The rules governing the promotion should pave the way to promote the Inspector of Police in General line. Therefore, the petitioner sought to promote him as Assistant Commandant (Category 3) .

3. The respondents filed counter affidavit and denied the averments in the writ petition and categorically stated that the Government Orders and the Service Rules will in no way affect the rights of the petitioner. As per rule 4(c) of the Special Rules for Tamil Nadu Police Service as amended in G.O.Ms.No.734 dated 08.11.2011, the writ petitioner is not possessing requisite seniority.

4. Heard both sides and perused the entire materials available on



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5. Rule 35(a) and 35(aa) of Tamil Nadu State and Subordinate Service Rules deal with the seniority of the initial appointment at feeder category. Recruitment and promotion are two different and distinct factors in service law. Recruitment is the stage of entering into the service, whereas, promotion is benefit derived in the service. Rule 24 of Tamil Nadu Special Police Subordinate Service Rules 1978, is analogous to Rule 35(a) and 35(aa) of the Rules. Rule 24(f) of Tamil Nadu Special Police Subordinate Service Rules deals with transfer of a person from one category to another category carrying the same pay or scale of pay. There are specific separate rule provisions with respect to promotion in Tamil Nadu Special Police Subordinate Service Rules. Therefore, there need not be any confusion in applying Rule 24(b) of the Rules and G.O.(Ms).No.734 Home (Police-1) Department dated 08.11.2011.



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6. It is settled proposition of law that the settled seniority need not be disturbed for after about a decade. In the case of [B.S.Bajwa and another Vs. State of Punjab and others](#), the Hon'ble Supreme Court has held as follows:

“ It is well settled that in service matters the question of seniority should not be re- opened in such situations after the lapse of a reasonable period because that results in disturbing the settled position which is not justifiable. There was inordinate delay in the present case for making such a grievance. This alone was sufficient to decline interference under [Article 226](#) and to reject the writ petition.”

7. In the present case on hand, the seniority in the promotional post has been settled as early as in the year 2005. Following the above judgment of the Hon'ble Supreme Court, the seniority already settled cannot be unsettled after a long gap. For the aforesaid reasons, this Court is of the view that the relief as prayed for by the petitioner cannot be entertained. Accordingly, this writ petition is dismissed. No costs. Consequently,



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connected miscellaneous petition is closed.

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3.The Additional Director General of Police
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J.NISHA BANU, J.

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