



W.P.(MD).No.10734 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDER RESERVED ON : 31.10.2023

ORDER PRONOUNCED ON : 02.11.2023

**CORAM:
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

**W.P.(MD).No.10734 of 2021
and WMP(MD).No.8355 of 2021**

R.Venkatesan

....Petitioner

Vs

1.The Director General of Police
Office of the Director General of Police
Headquarters
Chennai

2.The Director General of Police-Member Secretary
Tamil Nadu Uniformed Services Recruitment Board
Chennai

3.The Superintendent of Police
Office of the Superintendent of Police
Madurai District

...Respondents

Prayer: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the first respondent in his proceedings in RC.No.909778/Rect.II(1)2021, dated 15.03.2021 and quash the same as illegal and consequently to direct the respondent Nos.1 and 2 to place the petitioner's name in the appropriate place of the Selection list of post of Sub



W.P(MD).No.10734 of 2021

Inspector of Police, Men and Women-2006 by taking into consideration of non-joining of a candidate namely Manickavasagam under MBC Sports Quota, consequently include his name in the Senior Panel list fit for promotion to the post of Inspector of Police with all attendant benefits and for other reliefs.

For Petitioner : Mr.J.Lawrance

For Respondents : Mr.S.Shaji Bino
Special Government Pleader

ORDER

The present writ petition has been filed seeking to quash the order passed by the first respondent herein wherein the request of the petitioner for revision of the category of appointment from Armed Reserve to Taluk Police was rejected.

2.The petitioner herein had applied to the post of Sub Inspector of Police- Men and Women pursuant to the notification issued by the second respondent Board in the year 2006. Out of 736 notified vacancies, 10% of the posts were reserved for Sports Quota. The petitioner was selected under 10% Sports Quota. After successful completion of the selection process, he was appointed as a Sub Inspector of Police (Taluk Police) vide order dated 27.12.2007.

3.It is the further contention of the writ petitioner that he belongs to MBC Community and as per the said communal roster, his name was found



W.P(MD).No.10734 of 2021

in Serial No.4. The second respondent had sent a revised provisional selection list under Rule-22 of the Tamil Nadu State Subordinate Services Rules in consultation with Tamil Nadu Public Service Commission. In the said revised provisional selection list, the position of nearly 220 candidates were changed. Therefore, the petitioner had lodged an objection to the Government and the Government rejected the said objection and passed an order in G.O(Ms).No.305 (Home) (POL-3) Department, dated 15.04.2020 and upheld the selection list. According to the petitioner, he was placed at Serial No.27 of the Sports Quota and he has no grievance over the revised selection list.

4.The petitioner had further contended that in the communal roster for MBC in Sports Quota one Manickavasagam was placed in Serial No.3 who did not join duty. Therefore, the said 3rd place was continuously kept vacant without moving up the candidates who are placed below him. Hence, he sent a representation to the respondents on 14.08.2020 for upward movement of the writ petitioner by one stage in MBC Quota. Since the said representation was not considered, the petitioner had filed WP(MD).No.12887 of 2020 and an order came to be passed on 29.09.2020 directing the first respondent to consider the representation of the petitioner on merits and in accordance with law. In compliance of the said order, the present impugned order has been passed by the first respondent rejecting his claim for upward movement of his



W.P(MD).No.10734 of 2021

seniority in the place of non-joining candidate namely Manickavasagam.

Challenging the same, the present writ petition has been filed.

5. According to the learned counsel for the writ petitioner, the petitioner was selected under 10% of Sports Quota and originally he was selected as Sub Inspector of Police (Taluk Police) but later, a revised provisional list was published, in which, his name was reflected as Sub Inspector of Police (Armed Reserve). He had further contended that the petitioner belongs to MBC community and the first candidate of MBC community whose name was reflected in Serial No.3 in the Sports Quota did not join and therefore, in the said vacancy, other MBC candidates should be moved by one stage. However, the authorities have erroneously rejected his request on the ground that he cannot move from Armed Reserve to Taluk Police. Hence, he prayed for allowing the writ petition.

6. Per contra, the learned Special Government Pleader appearing for the respondents had contended that any reservation on communal basis or on a Sports Quota should be taken into consideration only for the purpose of appointment. The seniority cannot be fixed on the basis of Sports Quota. The seniority can be fixed only on the basis of the merit list published by the second respondent Board. Accordingly, the second respondent Board has published the merit list based upon the marks obtained by the candidates. In the said merit list, the name of the petitioner is reflected in Serial No.274.



W.P(MD).No.10734 of 2021

Therefore, the request of the petitioner for upward movement based upon sports quota is not legally sustainable. Hence, he prayed for dismissal of the writ petition.

7.I have given anxious consideration to the submissions made on either side and perused the material records.

8.It is an undisputed fact that the petitioner has been selected under 10% Sports Quota within the MBC communal rotation. According to the petitioner, the first candidate in the Sports Quota falling under MBC category had not joined duty and therefore, all other sports personnel who were selected in the MBC Quota should be permitted to move ahead by one stage. From the contention of the writ petitioner, it is clear that the petitioner is claiming seniority on the basis of Sports Quota and the communal rotation in which he has been selected.

9.The Hon'ble Supreme Court in a judgment reported in **(2003) 5 SCC 604 (Bimlesh Tanwar Vs. State of Haryana and others)** in Paragraph No.40 has held as follows:

“40.An affirmative action in terms of Article 16(4) of the Constitution is meant for providing a representation of a class of citizenry who are socially or economically backward. Article 16 of the Constitution of India is applicable in the case of an appointment. It does not speak of fixation of seniority. Seniority is, thus, not to be fixed in terms of the roster points. If that is done,



W.P(MD).No.10734 of 2021

the rule of affirmative action would be extended which would strictly not be in consonance of the constitutional schemes. We are of the opinion that the decision in P.S. Ghalaut does not lay down a good law.”

10. In view of the judgement of the Hon'ble Supreme Court, it is clear that the communal reservation or the sports quota is meant only for induction of candidate based upon the community or the merit in sports. Once, they are inducted into service, their seniority will be governed only by rank they have secured in the competitive examination conducted by the second respondent Board. Admittedly, in the present case, the second respondent Board has published a rank list on the basis of the marks obtained by the candidates irrespective of the communal rotation or the sports quota. Therefore, the petitioner is not legally entitled to claim any seniority based upon his selection under Sports Quota and there are no merit in the writ petition. Accordingly, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

02.11.2023

Internet : Yes/No
Index : Yes/No
NCC : Yes/No
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W.P(MD).No.10734 of 2021

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R.VIJAYAKUMAR, J.



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W.P.(MD).No.10734 of 2021

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Pre-delivery order made in

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