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W.P.Nos.4931, 4934 & 4935 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.02.2024

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THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.Nos.4931, 4934 & 4935 of 2020

R.Devar ... Petitioner in W.P.No.4931 of 2020

V.Sivasankar ... Petitioner in W.P.No.4934 of 2020

P.Ganesan ... Petitioner in W.P.No.4935 of 2020

Vs.

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

2.The Superintendent of Police,
District Police Officer,
Cuddalore District.

... Respondents in all W.Ps

Common Prayer : Writ Petitions are filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the respondents to pass orders on the representation of the petitioners dated 25.09.2019 by conferring seniority and other benefits to the petitioners, on par with their batchmates in the light of orders of the Hon'ble High Court made in W.P.Nos.41271 & 41273 of 2006 dated 25.02.2011 and W.P.No.19872 of 2018 dated 02.08.2018 and Order of implementation issued by the first respondent dated 24.04.2019 issued in favour of Thiru.K.Paramasivam.

In all W.Ps

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For Petitioners : Mr.R.K.Sathishkumar

For Respondents : Mr.P.Kumaresan, AAG
Assisted by Mr.T.Chezhiyan, AGP

COMMON ORDER

These Writ Petitions have been filed for the issuance of a Writ of Mandamus, to direct the respondents to pass orders on the representation of the petitioners dated 25.09.2019 by conferring seniority and other benefits to the petitioners, on par with their batchmates in the light of orders of the Hon'ble High Court made in W.P.Nos.41271 & 41273 of 2006 dated 25.02.2011 and W.P.No.19872 of 2018 dated 02.08.2018 and Order of implementation issued by the first respondent dated 24.04.2019 issued in favour of Thiru.K.Paramasivam.

2. Heard Mr.R.K.Sathishkumar, learned counsel for the petitioners, Mr.P.Kumaresan, learned Additional Advocate General assisted by Mr.T.Chezhiyan, learned Additional Government Pleader for the respondents.

3. The learned counsel for the petitioners submitted that the



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petitioners were initially selected for the post of Grade II Constable in the year 1993. However, they were not sent for training immediately along with their batch mates. All the candidates who participated in the selection for the year 1993 have been sent for training. But the petitioners were not sent for training in view of the pending criminal case against them. The criminal case ended in acquittal in the year 1993 and the appointment order was given to the petitioners only on 01.11.1997. Similarly placed persons who were selected in the year 1993 and 2001 have given a representation to fix their seniority on par with their batch mates. But the same was rejected by the respondents. Hence, Writ Petitions came to be filed by those persons in W.P.Nos.41271 and 41273 of 2006, in which a direction has been given by setting aside the rejection order. Subsequently it was even implemented by the respondents.

4. The petitioners claim that they are also similarly placed persons like those who obtained the direction in the earlier Writ Petitions and consequential implementation of the orders by the respondents.

5. The learned Additional Advocate General for the respondents submitted that as per Rule 35(f) of the Tamil Nadu State and Subordinate



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Service Rules, any one aggrieved due to fixation of seniority, has to file the application for revision of seniority within a period of three years from the date of appointment and all applications which were received after three years were eligible to be rejected summarily. So it is submitted by the learned Additional Advocate General for the respondents that the petitioners have filed the application requesting re-fixation of seniority after three years and hence, it has to be rejected.

6. However, the same rule gives an exception by stating that the said rule will not be applicable for the cases for rectifying orders resulting from mistake of facts. It is further submitted that according to Rule 40(6) of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016, a person applying for revision of his service seniority has to submit his request within three years from the date of his appointment. The petitioners who were appointed on 01.11.1997, should have submitted their request before 01.11.2000 but the petitioners have not submitted their request within the stipulated period.

7. The petitioners who were appointed on 01.11.1997 have given a request for fixation of seniority only in the year 2019, after a lapse of 22 years. However, the petitioners who had given their representation did not



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know the result of their representation. It is upto the respondents for any acceptable reasons to condone the delay and to pass any orders in the light of the earlier judicial pronouncement made in respect of similarly placed persons in W.P.Nos.41271 and 41273 of 2006.

8. With these observations, these Writ Petitions are disposed and the respondents are directed to consider the representation of the petitioners and pass appropriate orders in accordance with law and in accordance with the earlier judicial pronouncements, within a period of four weeks from the date of receipt of a copy of this order. No costs.

12.02.2024

Index : Yes /No
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Speaking / Non-speaking
Neutral Citation : Yes/No
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R.N.MANJULA, J.

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To

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

2.The Superintendent of Police,
District Police Officer,
Cuddalore District.

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