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W.A.Nos.1118 to 1122 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.06.2024

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

W.A.Nos.1118 to 1122 of 2020

and

C.M.P.Nos.13661 to 13668 & 13670 of 2020

W.A.Nos.1118, 1119 & 1122 of 2020:

The President cum Deputy Commissioner,
Washermenpet, Greater Chennai Police,
Head Constable Promotion Special Board,
Chennai.

... Appellant
in 3WAs

Vs.

1.S.Shanmuga Sundaram

... Respondent
in WA.No.1118/2020

2.K.Rajagopalan

... Respondent
in WA.No.1119/2020

3. K.Mahendran

... Respondent
in WA.No.1118/2020

Prayer in W.A.No.1118/2020: Writ Appeal filed under Clause 15 of Letters Patent to set aside the order dated 15.03.2019 made in W.P.No.18460 of 2013 allow these writ appeals.



W.A.Nos.1118 to 1122 of 2020

Prayer in W.A.No.1119/2020: Writ Appeal filed under Clause 15 of Letters Patent to set aside the order dated 15.03.2019 made in W.P.No.18459 of 2013 allow these writ appeals.

Prayer in W.A.No.1122/2020: Writ Appeal filed under Clause 15 of Letters Patent to set aside the order dated 15.03.2019 made in W.P.No.18461 of 2013 allow these writ appeals.

W.A.Nos.1120 & 1121 of 2020:

- 1.The State Rep. by
The Secretary to Government,
Home (Police) St. George Fort,
Chennai.
- 2.The Director General of Police,
Mylapore, Chennai.
- 3.The Commissioner of Police,
Egmore, Chennai.
- 4.The President cum Deputy Commissioner,
Washermenpet, Greater Chennai Police,
Head Constable Promotion Special Board,
Chennai.

... Appellants
in 2WAs

Vs.

1.M.Murugan

... Respondent
in WA.No.1120/2020

2.M.Ashok Kumar

... Respondent
in WA.No.1121/2020



W.A.Nos.1118 to 1122 of 2020

Prayer in W.A.No.1120/2020: Writ Appeal filed under Clause 15 of Letters Patent to set aside the order dated 15.03.2019 made in W.P.No.20415 of 2013 allow these writ appeals.

Prayer in W.A.No.1121/2020: Writ Appeal filed under Clause 15 of Letters Patent to set aside the order dated 15.03.2019 made in W.P.No.20413 of 2013 allow these writ appeals.

For Appellants : Mr.T.Chandrasekaran
Special Government Pleader
(in 5 WAs)

For Respondents : No Appearance
(in 5 WAs)

COMMON JUDGMENT

[Judgment was delivered by **S.M.SUBRAMANIAM, J.**]

The State preferred present appeals challenging the writ order granting retrospective promotion to the post of Sub Inspector of Police in favour of the respondents.

2. The respondents were appointed as Grade-II Police Constable (Armed Reserve) in the Tamil Nadu Police Service. The respondents were



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promoted to the post of Head Constable (Armed Reserve). The next avenue promotion is Sub Inspector of Police (Armed Reserve). The case of the respondents are that the Range Promotion Board Test was not conducted periodically and there was an enormous delay on the part of the authorities in conducting the Promotion Board Test. The Range Promotion Board Test was abolished by the Government in G.O.Ms.No.1055, Home (Police.III) Department dated 01.11.2006. Thereafter, promotion to the post of Sub Inspector of Police could be considered based on the eligibility and seniority.

3. It is not disputed between the parties that the respondents were transferred to Motor Transport Wing of the Police Department. During the relevant period of time, the Motor Transport Wing of the Police Department maintained separate seniority list. Therefore, the respondents and the other Head Constables, who were deputed to Motor Transport Wing were not called for to appear before Range Promotion Board.

4. The batch mates of the respondents participated in the Range Promotion Board Test and promoted to the post of Sub Inspector of Police in the year 2000. The respondents were promoted to the post of Sub Inspector



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of Police in the year 2005. These Head Constables deputed to Motor Transport Wing of Police Department submitted representations to promote them with retrospective effect from the date on which the Head Constables (Armed Reserve) were promoted to the post of Sub Inspector of Police after undergoing the Range Promotion Board Test in the year 2000. The stand of the respondents are that the Board Test was abolished by the Government in the year 2006. Therefore, they cannot be compelled by the appellants to undergo the Promotion Board Test. Without undergoing test they must be promoted retrospectively from the date on which their batch mates were promoted to the post of Sub Inspector of Police in the year 2000. Their claim was not considered by the appellants. Thus, they preferred writ petitions.

5. Yet another ground raised by the respondents is that some of the Motor Transport Wing Head Constables approached the Court and secured orders, which were implemented.

6. With reference to the said ground, we found that the respondents have already retired from service. More so, their batch mates were promoted in the year 2000 to the post of Sub Inspector of Police. The respondents were



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promoted as Sub Inspector of Police in the year 2005. The seniority dispute is to be raised by the employees within a period of three years as per the rules in force. The respondents have not raised the seniority dispute within a period of three years. Belated claim to revise the seniority would unsettle the settled seniority and result in an anomalous situation. Therefore, the Courts have consistently held that the settled seniority cannot be unsettled after several years.

7. Pertinently, when the batch mates of the respondents were promoted to the post of Sub Inspector of Police in the year 2000, the Range Promotion Board Test was in existence. The respondents have not opted to challenge the said promotion during the relevant point of time. They have opted to seek retrospective promotion only after cancellation of the Board Test by the Government with effect from 01.11.2006.

8. Even now their claim is that they should be retrospectively promoted to the post of Sub Inspector of Police without subjected to Board Promotion Test. The question at this length of time would not arise, since the respondents have already retired from service and several years lapsed. Now



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unsettling the settled seniority would result in larger repercussions. Merely to secure monitory benefits at this length of time, the seniority cannot be revised. Admittedly, the respondents in the year 2000 had not undergone the Board Test. For all these reasons, we are inclined to interfere with the writ order.

9. Accordingly, the common writ order dated 15.03.2019 is set aside and the Writ Appeals stand allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

[S.M.S., J.] [C.K., J.]
26.06.2024

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Index : Yes
Speaking order
Neutral Citation : Yes



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S.M.SUBRAMANIAM, J.
and
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