



W.P.No.12385/2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.02.2024

CORAM

THE HONOURABLE Ms.JUSTICE R.N.MANJULA

W.P. No.12385 of 2020
and W.M.P.No.28197 of 2022

1. M.Radha Krishnan
2. R.Raja Sekar
3. V.Mani Gandan
4. I.Rajeshkumar
5. P.Tamilvanan
6. D.Rajkumar
7. K.Sathyamurthy
8. J.Silamarasan
9. S.Silambarasan
10. S.Subramani
11. M.Elavarasan
12. R.Naveenkumar
13. N.Vignesh
14. R.Ramesh
15. K.Ayyappan
16. V.Kalaimani
17. K.Karthikeyan
18. R.Vijay
19. V.Sethupathi
20. K.Chiranjeevi
21. R.Udayakumar
22. S.Arunprakash
23. D.Merince
24. C.Silambarasan



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25. S.Surya
26. E.Kalidass
27. R.Kumaresan
28. K.Santhosh
29. C.Muruganantham
30. P.Dinesh

...

Petitioners

/vs/

1. The State of Tamil Nadu,
Rep. by its Secretary to Government,
The Secretariat, Chennai – 600 005.

2. The Director of General of Police,
Dr.Radhakrishnan Road, Mylapore,
Chennai – 600 004.

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of mandamus to direct the respondents to place the seniority of the petitioners on par with their original Youth Brigade batchmates who were recruited in the year 2014 and appointed as Grade-II Constables in Tamilnadu Special Police (TSP) in the year 2016 together with inter-se seniority based on marks secured by the petitioners at Police Training Academy, grant them continuity of service and attendant benefits without back wages.



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For Petitioner ... Mr.K.Ravi Anantha Padmanaban
for Ms.P.Rajalakshmi

For Respondents ... Mr.S.Arumugam
Government Advocate

ORDER

The petitioners have filed this writ petition seeking for issuance of a writ of mandamus to direct the respondents to place their seniority on par with their original Youth Brigade batch-mates who were recruited in the year 2014 and appointed as Grade-II Constables in Tamilnadu Special Police (TSP) in the year 2016 together with *inter-se* seniority based on marks secured by the petitioners at Police Training Academy and grant them continuity of service and attendant benefits without back wages.

2. The petitioners have been appointed as Youth Brigade on 12.02.2014 with the Police Department are entitled to be absorbed as Grade II Police Constables in Tamilnadu Special Police on completion of one year duty as 'Youth Brigades' besides clearing their examination. The batch-mates of these petitioners have completed one year period as Youth Brigade during the year 2015 and after they cleared the written



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examination successfully, they got their appointment as Grade II Police Constable in Tamilnadu Special Police during the month February, 2016.

But the petitioners were not able to complete one year duty as Youth Brigade along with their batch mates on account of some inconveniences. However, their absence from work has been condoned as 'leave without pay'. Accordingly they were allowed to complete their one year period during the year 2016. However the examination for recruitment for the post of Grade II Police Constables in Tamilnadu Special Police was conducted only on 13.11.2017 and thereafter the petitioners were sent for training on 24.11.2017 and got appointed on 01.12.2017. A notification was issued on 23.01.2017 for appointment of Grade II Police Constables and they got appointed on 01.11.2017.

3. Mr.K.Ravi Anantha Padmanaban, the learned Senior Counsel for the petitioner, submitted that the petitioners belong to 2014 batch of Youth Brigades who have been appointed as Grade II Police Constables in the year 2016 after their completion of one year service; hence their seniority has to be fixed below the last person in the above Youth Brigade batch; the



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petitioners have filed this writ petition in view of the fact that those police constables who have been recruited on 01.11.2017 have been placed above the petitioners in the rank of seniority; the petitioners should be considered as those persons who belonged to the batch of Youth Brigades of the year 2014 and they cannot be placed behind any other batch for whom the recruitment has been made for Police Constables and not as Youth Brigades.

4. In support of his above contention, the learned Senior Counsel for the petitioner cited the judgment of Division Bench of this Court held in ***The Secretary to Government, Home (Police-3) Department and other Vs. J.Pratap Prem Kumar in W.A.No.1581/2010 dated 05.09.2010*** wherein it is held that the fixation of seniority should be done in accordance of 25(a) of Special Rules for re-fixation of seniority and that has to be reckoned from the date of completion of training and so far as the date of appointment is concerned it should be reckoned from the date of selection. It is further held that for the purpose of fixation of seniority the relevant date must be the date on which the person was selected and not



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otherwise. For the purpose of refixing the seniority on the date of selection, the marks obtained by the candidate will be taken into consideration. The relevant paragraphs of the said judgment is extracted hereunder:

“ 7. So far as the first point is concerned as to from what date the respondent would be entitled for refixation of seniority, through Rule 25(a) of the Special Rules prescribes the date of completion of training and depending upon the marks obtained by the candidate, in view of the judgment of the Supreme Court in State of Haryana and others Vs. Dinesh Kumar, 2008 (1) Supreme 296, the date of appointment shall be reckoned from the date of selection.

8. In view of the above, for the purpose of fixation of seniority of the respondent, the relevant date must be the date on which he was selected and not otherwise. For the purpose of refixing the seniority on the date of selection, the marks obtained by the respondent shall also be taken into consideration.”

5. On the same line of the argument, another judgment of the Hon'ble Supreme Court reported in ***A.Ragu s/o.Rajaiah Vs. Govt. Of Andhara Pradesh & others*** reported in (2015) 14 SCC 221 wherein it is held as under:

“ The selection process having been joint, and in furtherance of the same notification dated 22.01.1991 (issued by the Recruitment Board), it is inevitable for us to conclude, that the candidates deputed to the two



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different courses of training (on 15.07.1991 and 14.06.1992) were essentially candidates belonging to a singular batch, who were selected through a common process of selection. In fact, the instant inference, insofar as the issue of inter se seniority is concerned, is inevitable, as the dates on which the candidates were deputed for training, are inconsequential..”

6. The crux of the above judgment is that when the selection process has been joint and in furtherance of the same notification dated 22.01.1991 (issued by the Recruitment Board), the candidates deputed to two different courses of training on 15.07.1991 and 14.06.1992 ought to be considered as the candidates belonging to a single batch and hence the date on which they were sent for training is inconsequential. By relying on the above judgment, the learned Senior counsel for the petitioner claimed that the petitioner's seniority should be in continuation of the other batch of Youth Brigades who have been selected in the year 2014 and who have got their appointment in the year 2016 as Police Constables.

7. Mr.S.Arumugam, the learned Government Advocate, submitted that the since the petitioners have been appointed only on 01.11.2017 they



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cannot claim seniority over the other batch who have been selected on 26.02.2016 itself.

8. The matter lies in a very narrow campus. If the selection of the Youth Brigades itself is considered as selection for the post of Grade II Police Constable in Battalion / Category-III/ Tamilnadu Special Police, then the petitioners claim of placing them along with their batch mates would stand good. But if the recruitment to the post of Youth Brigades and the appointment to the post of Police Constable in Battalion / Category-III/ Tamilnadu Special Police is different, then the petitioners who have got their appointment later than their earlier Youth Brigade batch cannot claim seniority along with them. In the instant case, the Youth Brigades were not given automatic appointment, but the condition is that they should complete one year of service and they should also come out successfully in the written examination. Even if the Youth Brigades has one year completion of service and if they happen to fail in the written examination, they will not be appointed. So the appointments given to Youth Brigades is only through passing the written examination. So far as these petitioners



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are concerned, they actually fell beyond the ambit of consideration in view of their non-completion of one year. However their absence has been condoned as 'leave on loss of pay' and they have been allowed to participate in the examination meant for recruitment of Police Constable in Battalion / Category-III/ Tamilnadu Special Police.

9. Had the petitioners participated in the examination along with the Youth Brigades they would have appointed but sent for training alone at a later date, it is understandable that the petitioners should be treated as the same batch of persons who have been selected to Police Constable in Battalion / Category-III/ Tamilnadu Special Police. In such case the petitioners are entitled to be treated on par with others as per the dictum laid on by the Hon'ble supreme Court in *A.Ragu's case* (cied supra). But the petitioners happened to appear in the written examination itself on 12.06.2017 and got their appointment on 01.12.2017. In the meanwhile the recruitment of Grade II Police Constable itself has taken place and they have been appointed during 01.11.2017 itself.



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10. The petitioners got themselves segregated from their earlier batch in terms of appointment because they could appear for written examination for selection only at a later date. In other words, the petitioner could get the advantage of participating in the limited written examination of Youth Brigade in view of the condonation of their absence but not otherwise. Since they did not clear their written examination and completed their training on par with those persons who have been working as Youth Brigades along with the petitioners, the petitioners cannot claim that they belonged to the same batch in the cadre of Grade II Police Constable and hence they should be placed along with the persons who have been selected in the year 2016.

11. However the learned Senior Counsel for the petitioners has attracted the attention of this Court to the judgment of the Hon'ble Supreme Court in *Balwant Singh Narwal and others Vs. State of Haryana and others reported in 2008 7 SCC 728* where reference has been made about the judgment rendered in *Surendra Narain Singh Vs.*



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State of Bihar. In the said case it has been held that the candidates who have been selected against earlier vacancies but who could not be appointed with others of same batch due to some technical difficulties, when appointed subsequently will have to be placed above those who have been appointed subsequently. But the case on hand is distinguishable on facts for the very reason that the petitioners were not selected to the post of Grade II Police Constable along with the batch in which they wished to be placed. It is obviously for the reason that they have completed their written examination only as a separate batch in a separate written examination held for them. Hence, in any probability the petitioners cannot be considered that they belong to the same batch of Grade II Police Constable, who have been recruited in the year 2016 and hence they should be placed before them and above the batch who have been recruited in the year 2017.

12. In view of the reasons stated above, this Writ Petition is dismissed. No costs. Connected miscellaneous petition is closed.

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Index: Yes / No

Speaking order / Non-speaking order

Neutral Citation Case: Yes / No



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