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W.P.No.15281 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.11.2024

CORAM :

THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

Writ Petition No.15281 of 2020
and W.M.P.No.19107 of 2020

S.Thirumalpathy

... Petitioner

Vs.

1.The Additional Director of Police,
(State Crime Record Bureau),
95, Santhome High Road,
R.A.Puram, Chennai – 28.

2.The Additional Director of Police (Admin),
O/o Director General of Police,
Kamarajar Salai, Mylapore,
Chennai – 4.

3.A.Paneer Selvam

4.M.Mahalakshmi

5.S.Revathi

6.S.Pushparaj

7.J.Prasad

Respondents

...

Writ Petition filed under Article 226 of Constitution of India, praying for issuance of Writ of Certiorarified Mandamus calling for the records of the first respondent in his proceedings Na.Ka.No.A1/1775/Ma.Ku.AA.Ka/2020 dated 31.07.2020 and quash the same and further directing the first respondent to redraw the seniority list of Photographers based on marks



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obtained by candidates in recruitment test and place the petitioner at serial number 4 in the Seniority list and consequently promote him to the post of Senior photographer notionally from 01.11.2018 and pay him monetary benefits accordingly.

For Petitioner : Mr.N.S.Nageshwaran

For Respondents 1 & 2 : Mr.M.Rajendiran,
Additional Government Pleader

For Respondent 3 to 6 : No appearance

For Respondent 7 : Mr.A.R.Suresh

ORDER

This writ petition has been filed to call for the records of the first respondent in his proceedings Na.Ka.No.A1/1775/Ma.Ku.AA.Ka/2020 dated 31.07.2020 and quash the same and further directing the first respondent to redraw the seniority list of Photographers based on marks obtained by candidates in recruitment test and place the petitioner at serial number 4 in the Seniority list and consequently promote him to the post of Senior photographer notionally from 01.11.2018 and pay him monetary benefits accordingly.



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2. The case of the petitioner is that the petitioner along with 18 others were appointed as Photographers by the first respondent vide proceedings dated 08.08.2011. The petitioner joined service on 17.08.2011 and completed his probation on 15.08.2013. This being so, seniority list of photographers was prepared based on merit (i.e., as per marks obtained by candidates in the test conducted for recruitment) and the petitioner was placed in Sl.No.4. Subsequently, the first respondent, vide proceedings dated 08.02.2017 issued a show cause notice stating that under Section 40 of the Tamil Nadu Government Servant (condition of service) Act, 2016, the seniority list has to be prepared based on communal rotation and not based on merit and sought to revise the seniority of candidates.

3. The first respondent vide order dated 11.08.2017, revised the seniority of photographers based on communal rotation. Therefore, the petitioner was placed at Sl.No.9. instead of Sl.No.4. Based on the aforesaid seniority list, the second respondent has promoted the respondents 3 to 7 as senior photographers, who were the juniors of petitioner in the original seniority list based on merit. Therefore, the petitioner made a representation dated 26.06.2020, requesting the respondents 1 & 2 to redraw the seniority



list based on merit (i.e., marks obtained by candidates in recruitment test) and place him at Sl.No.4 in the seniority list of photographers and consequently promote him to the post of senior photographer notionally from 01.11.2018 (i.e., the date on which his juniors were promoted to that post) and pay him monetary benefits. However, without considering the same, the first respondent vide proceedings Na.Ka.No.A1/1775/Ma.Ku.AA.Ka/2020 dated 31.07.2020 rejected the petitioner's representation. Aggrieved over the same, the petitioner has come forward with the present writ petition.

4. Learned counsel for the petitioner submitted that as per provisions of Section 40 of the Tamil Nadu Government Servant (Condition of Service) Act, the petitioner's seniority was reduced to Sl.No.9 from Sl.No.4. However, the aforesaid Section 40(1) of the Tamil Nadu Government Servant (Condition of Service) Act was quashed by the Division Bench of this Court vide its judgment dated 15.11.2019 and directed to redo the fixation of seniority.

5. Learned counsel for the petitioner would further submitted that challenging the order of this Court dated 15.11.2019, the respondents 1 & 2 have preferred an appeal before the Hon'ble Supreme Court of India in Special



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Leave to Appeal (C) Nos.2861 to 2876 of 2020 and the same was also dismissed on 06.07.2020.

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6. Learned Additional Government Pleader appearing for the respondents 1 & 2 has submitted a proceedings of the Director General of Police vide Rc.No.110994/NGB VI(2)/2018, dated 12.09.2024, seeking clarification whether the seniority list of the Police Photographers, Senior Photographic Attendants & Junior Photographic Attendants be revised based on the marks obtained by the candidates during the exam conducted by SCRB, Chennai or on communal rotation.

7. Learned Additional Government Pleader appearing for the respondents 1 & 2, seeking three months time to get clarification from the Government in regard to the re-drawing of the seniority list of the Photographers.

8. Heard the learned counsel on either side and perused the materials available on record.

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9. In this case, though the Hon'ble Supreme Court of India as early as on 06.07.2020, dismissed the Special Leave Petition for appeal filed by respondents 1 & 2 and thereby affirmed the order passed by the Division Bench of this Court on 15.11.2019 to re-draw the seniority list of the photographer based on the marks secured in the recruitment test.

10. The Director General of Police had written a letter to the Additional Chief Secretary to Government, Home Department only on 12.09.2024 i.e., after a delay of four years.

11. In view of the above factual matrix of the case, this Court directs the respondents 1 & 2 to re-draw the seniority list based on the marks obtained by the candidates in the recruitment test, within a period of four months from the date of receipt of a copy of this order.

12. With the above observation and direction, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.



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Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes/No

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