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W.P.No.18911 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :29.04.2024

CORAM

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.18911 of 2021
and
W.M.P.No.20175 of 2021

J.Rajkumar

... Petitioner

Vs.

1. The State of Tamil Nadu,
Rep. by its Secretary to Government,
(Home III Police) Department,
Secretariat, Chennai – 600 005.
2. The Director General of Police,
Tamil Nadu Uniform Services Recruit Board,
P.T.Lee Chengalvarayar Nayakar Trust,
2nd Floor No.807, Mount Road,
Chennai – 600 002.
3. The Director General of Police,
(Head of Police Force),
Dr.Radhakrishnan Salai,
Mylapore, Chennai – 600 004.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the 3rd respondent in Rc.No.1101685/ Rect. / 2(1) / 2021 dated 05.05.2021 and quash the same and to direct the respondents to appoint the petitioner as a Sub Inspector of Police in the category (Law and Order) with retrospective



seniority together with all attendant benefit from the date of this petitioner appointment i.e.01.07.2002.

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For Petitioner : Mr.P.Chandrasekar

For Respondents : M/s.E.Ranganayaki,
Additional Government Pleader

ORDER

The father of the petitioner viz., Thiru M.Jayakannan, while he was working as Grade I, Police Constable died on duty in the year 1996. Thereafter, his wife viz., Mrs.Mallika and the petitioner herein submitted an application to the respondent Superintendent Police, Vellore District on 30.12.1996, requesting for compassionate appointment as “Junior Assistant”. Thereafter, the petitioner was appointed as “Police Constable” on 14.07.2002 on compassionate grounds and has been continuing as such. While so, the petitioner started making a claim for being appointed as “Sub-Inspector of Police” on compassionate grounds, instead of the “Police Constable” on the ground that the petitioner acquired all the qualifications that are required for the post of “Sub-Inspector of Police” viz., Graduation and therefore, the petitioner is entitled for appointment to the post of “Sub-Inspector of Police” instead of the “Police Constable”.



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2. It is also asserted by the petitioner that the persons, who were similarly situated like the petitioner were appointed as “Sub-Inspector of Police” at the relevant point of time by issuing various appointment orders and whereas, the petitioner was discriminated and was appointed only as “Police Constable”. Thus, the petitioner having claimed to have submitted representations till the year 2012, approached this Court in the year 2013 by filing W.P.No.19050 of 2013. This Court by an order dated 09.09.2020 having observed that, in case if the similarly situated persons were appointed as “Sub-Inspector of Police”, the petitioner cannot be denied such benefit and thus, directed the respondents to consider the case of the petitioner in accordance with law.

3. It is pursuant to the said order, the respondents having considered the case of the petitioner and passed the impugned order dated 05.05.2021, rejecting the claim of the petitioner. Aggrieved by the said order, the petitioner approached this Court by filing the present Writ Petition, seeking a direction to appoint the petitioner as “Sub-Inspector of Police” in the category of 'law



and order' with retrospective effect from 14.07.2002.

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4. This Court heard the learned counsel for the petitioner at length and also the learned Government Advocate appearing for the respondents and perused the entire materials on record.

5. It is not in dispute that when the petitioner submitted an application for compassionate appointment in the year 1996, the petitioner did not possess the qualification of Graduation, which is a necessary qualification for the post of “Sub-Inspector of Police”. The respondents having considered the application submitted by the petitioner and his mother, have duly included the name of the petitioner in the waiting list for compassionate appointments in terms of the qualification possessed by the petitioner at the relevant point of time. Admittedly, the petitioner acquired the Graduation Degree only in the year 1999.

6. Though the petitioner placed on record the appointment orders of some of the candidates, who were appointed in compassionate grounds in the



post of Sub-Inspector, no factual matrix pertaining to the said candidates were placed on record, as to when they submitted applications for compassionate appointment and as to the qualifications that are possessed by the said candidates as on the date of submission of application etc., In the absence of any factual matrix, it is not possible for this Court to examine whether the said candidates were similarly situated persons like the petitioner or not? in order to examine the contentions of the discrimination caused to the petitioner. On the other hand, the respondents filed counter-affidavit, wherein it is stated as follows:-

“ 3. With reference to the paras 4 to 9 of the affidavit, it is respectively submitted that the petitioner father Late Thiru M.Jeyakannan worked as Gr.1 PC and died while on duty on 1996, after deceased person in his wife Mrs. Mallika and one Son Thiru Rajkumar (at the time of his father death, he has study for the Second year B.Sc). Therefore, Tmt. Mallika has submitted a petition to the Superintendent of Police, Vellore District on 30.12.1996 and requested that her son is studying B.Sc



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Second year, therefore he may be appointed as Junior Assistant. Hence, the Superintendent of Police, Vellore District in his proposal dated: 16.12.1999 has forwarded the proposal to the Director General of Police, on scrutinized the above proposal the petitioner name was included in the waiting list in the post of Junior Assistant on compassionate ground by the Director General of Police, Chennai. Meanwhile, a long time no vacancy had been arise in the post of Junior Assistant/Typist in Police Ministerial Service. Hence, a policy decision was taken by the department in a welfare measure that the persons who were kept in waiting list for the post of Junior Assistant were called for to attend the Special Selection of Gr.II Police Constables on 29.06.2000, the petitioner also participated in the above Gr.II PC selection and got selected as Gr.II PC and still serving in the Police Department. Further, the petitioner did not



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complete the graduation on 30.12.1996 which was the first submission of application submitted for the basic appointment.

4. It is further submitted that the compassionate appointment segregate the same according to existing category wise vacancies and their respective educational qualifications mentioned in their respective compassionate ground applications. The petitioner was also informed about the category wise existing vacancy of police constable in notice No.na.no.019844/ கபந்1/ டிபிடி2/2000 dated: 29.06.2000 based on his educational qualification mentioned by him in his compassionate ground application and also he was duly informed about his appointment as police constable post. At the time of petitioner's certificate verification on 22.07.2000 at about 07.00 hrs, the staff of the verification committee at Rajarathinam Stadium, Egmore has



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informed him about the 'NIL' vacancy of the post of SI and he voluntarily accepted the available existing vacancy of Police Constable post on compassionate ground. Now, the petitioner stopped from his earlier plea and invokes this writ jurisdiction with false and frivolous allegations.”

7. From the above, it is evident that though the name of the petitioner was included in waiting list for appointment to the post of “Junior Assistant” for which the petitioner submitted an application, the petitioner could not be given the benefit of appointment and therefore, the respondents took a policy decision to fill up the post of “Grade II Police Constable” and accordingly, the petitioner was called for special selection and accordingly, the petitioner participated and got selected for the post of 'Grade II Police Constable’. It is also noticed that the petitioner was duly informed about the category-wise existing vacancy position as on 29.06.2000 and also the fact about the non-availability of vacancy in the category of Sub-Inspector and the petitioner has



voluntarily accepted for appointment to the post of Police Constable. In spite of such a specific contention raised in the counter-affidavit, no rejoinder is filed nor the said averments were disputed by the learned counsel for the petitioner.

8. In the absence of any such contradiction to the averments made in the counter-affidavit and also taking into consideration the fact that the petitioner was appointed as “Grade II Police Constable” as early as in the year 2002 and the petitioner has raised grievance against such an appointment only in the year 2013 by approaching this Court after a long lapse of time and in the absence of any violation of fundamental right or legal right of the petitioner, this Court does not find any substance in the contentions raised by the petitioner and accordingly, the Writ Petition is dismissed. No costs. Connected Miscellaneous Petitions, if any shall stand closed.

29.04.2024

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Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No

To



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1. The Secretary to Government of Tamil Nadu,(Home III Police) Department, Secretariat, Chennai – 600 005.
2. The Director General of Police, Tamil Nadu Uniform Services Recruit Board, P.T.Lee Chengalvarayar Nayakar Trust, 2nd Floor No.807, Mount Road, Chennai – 600 002.
3. The Director General of Police (Head of Police Force), Dr.Radhakrishnan Salai, Mylapore, Chennai – 600 004.

MUMMINENI SUDHEER KUMAR, J.

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