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W.P. No.17492 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.10.2024

CORAM :

THE HONOURABLE MR. JUSTICE MUMMINENI SUDHEER KUMAR

W.P.Nos.17492 & 17493 of 2014

C.Sivakumar ... Petitioner in W.P.No.17492 of 2014

M.Swaminathan ... Petitioner in W.P.No.17493 of 2014

Vs.

1.The Secretary to Government,
Home (Police-3) Department,
Fort St. George,
Chennai – 9.

2.The Director General of Police,
Mylapore, Chennai – 4.

3.The Commissioner of Police,
Greater Chennai Police,
Vepery, Egmore,
Chennai.

...Respondents in both W.Ps.

PRAYER in W.P.No.17492 of 2014 : Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus to call for the records in pursuant to the order issued by the ^{1st} respondent in G.O.(D) No.802 Home (Police-3) Department dated 01.10.2013 and quash the same and consequently direct the respondents to



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include the name of the petitioner in the 'C' list of the year 1991-1992 immediately above the name of his junior and promote him as Sub-Inspector, Inspector of Police and Deputy Superintendent of Police with retrospective effect with all consequential service and monetary benefits.

PRAYER in W.P.No.17493 of 2014 : Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus to call for the records in pursuant to the order issued by the ^{1st} respondent in G.O.(D) No.804 Home (Police-3) Department dated 01.10.2013 and quash the same and consequently direct the respondents to include the name of the petitioner in the 'C' list of the year 1991-1992 immediately above the name of his junior and promote him as Sub-Inspector, Inspector of Police and Deputy Superintendent of Police with retrospective effect with all consequential service and monetary benefits.

For Petitioner in
W.P.No.17492 of 2014 : Mr.R.Prem Narayan
For Petitioner in
W.P.No.17493 of 2014 : Mr.A.Harivasagam

For respondents in
both W.Ps., : Mr.Vadivelu Deenadayalan
Additional Government Pleader.

COMMON ORDER

In these two writ petitions, an identical issue arise for consideration and as such, they are taken up for consideration together and are being disposed of by this common order.



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2. The petitioners herein, who were initially appointed as 'Constable' were subsequently promoted to the post of 'Head Constable' and then they were temporarily appointed to the post of 'Sub-Inspector of Police'. The petitioners, on having come to know that, one S.Megakumar, who was also appointed like the petitioners herein, as 'Constable Grade-II', was extended the benefit of relaxation of Rule 3(d) of the Special Rules for Tamil Nadu Police Sub-ordinate Service Rules (hereinafter referred to as 'the Special Rules' for short) in exercise of power under Rule 39 of the Special Rules by issuing G.O (Ms) No.349, Home (Prisons-3) Department, dated 14.03.2008, made a claim for extending the similar benefits as well as notional promotion from the years 1991-1992 by including their names in the 'C-List' of eligible 'Head Constables' for promotion to the post of 'Sub-Inspector of Police'. The said claim of the petitioners in these writ petitions was considered by the respondents and their claim was rejected by passing various orders, which are impugned in the respective writ petitions. The basis for the petitioners in these writ petitions to seek the relief, as sought for in the respective writ petitions is G.O (Ms) No.349, Home (Prisons-3) Department, dated



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14.03.2008 issued in favour of one S.Megakumar. The validity of the said Government Order is considered by this Court in W.P.No.1694 of 2010 and batch by a common order dated 10.09.2024 and the said Government Order is quashed by this Court.

3. In the light of the said order dated 10.09.2024 passed in W.P.No.1694 of 2010 and batch, the entire basis for the claim that is being made by the petitioners in these writ petitions is no more available. In addition to the said Government Order, some of the petitioners have also placed reliance on various other orders issued by the Respondent No.2, extending the benefit of notional promotion to some of the persons, who are similarly situated like the petitioners in these writ petitions, who are also stated to be juniors to the petitioners in the cadre of 'Constable, Grade-II' and 'Head Constable' is concerned, the same cannot be directed to be extended to the petitioners, as this Court has already decided the same issue in W.P.No.1694 of 2010 and batch dated 10.09.2024 and any such benefit of notional promotion extended is found to be illegal, this Court is not inclined to issue a writ of mandamus to direct the respondent to perpetuate the



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illegality committed by them by issuing the said proceedings, including the proceedings bearing RC.No.129431/NGB.V(2)/2010 dated 30.08.2011 issued by the Respondent No.2.

4. However, the contention of the learned counsel for the petitioners is that the petitioners were not considered for promotion to the post of 'Sub-Inspector of Police' and further promotions in their own turn and seniority is concerned, it is always open for the petitioners to approach the Respondents 2 and 3 in case of any such grievance claiming for seniority and promotion as per their own entitlement without reference to relaxation of the Rules. In case, if the petitioners in these writ petitions make any claim for considering their cases for promotion to the post of 'Sub-Inspector of Police, Inspector of Police' and further promotions, basing upon their seniority and eligibility, the Respondents 1 and 3 shall consider the same in accordance with law and pass orders as expeditiously as possible at any rate within a period of four weeks from the date of making of such claim by the respective petitioners.



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5. Subject to the above observations, these Writ Petitions are dismissed. There shall be no order as to costs. Connected Miscellaneous Petitions, if any shall stand closed.

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Index : Yes/No
Speaking Order : Yes/No
dpa

To

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