



WP(MD) No.11221 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 08.03.2024

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THE HON'BLE MR. JUSTICE MUMMINENI SUDHEER KUMAR

W.P(MD)No.11221 of 2021
and W.M.P.(MD)No.8768 of 2021

P.Masanam

... Petitioner

Vs.

1.The Director General of Police,
Mylapore, Chennai-4.

2.The Commissioner of Police,
Madurai City, Madurai District.

3.The Assistant Commissioner of Police,
Town (L & O) Range,
Madurai City, Madurai District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, for the issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 2nd respondent in his proceedings in C.No.52110/A2/2019 dated 27.04.2021 and quash the same as illegal and consequently to direct the 2nd respondent to re-fix the seniority of the petitioner in the appropriate place on par with the batch mates selected in the year 2001-2003 in the light of order passed in CPO No.



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574/2019/C.No.BII (1)13528/2019 dated 22.04.2019 of 2nd respondent
within the period that may be stipulated by this Court.

For Petitioner : Mr.A.Nawazkhan for
M/s.Ajmal Associates

For Respondents : Mr.D.Sasikumar,
Addl. Govt. Pleader.

ORDER

The petitioner herein was provisionally selected as a candidate for appointment to the post of Grade-II Police Constable in the year 2001-2003 vide Registration Number.2202099 subject to clearance of police verification and medical examination. During the police verification, it was found that he was involved in a crime case, vide Crime No.17 of 2002, on the file of Valandhur Police Station, Madurai District and as such, he was not appointed. Subsequently, the petitioner was acquitted in the said crime on 06.10.2003 on the ground of benefit of doubt. Thereafter, the petitioner approached the respondents seeking appointment to the post of Grade-II Police Constable pursuant to his selection of the year 2001-2003. The same



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was rejected by the respondents by issuing proceedings in Memo Rc.No. 080992/Recruitment 3/2003, dated 02.01.2004. Aggrieved by the same, the petitioner approached this Court by filing W.P.(MD)No.11111 of 2006 and a learned single Judge of this Court allowed the said Writ Petition by an order dated 08.06.2007. The operative portion of the said order reads as under:

“8. For these reasons, the impugned orders are set aside and the respondents are directed to issue appointment order to the petitioners within a period of four weeks from the date of receipt of a copy of this order. However, it is made clear that the petitioners are not entitled for any back wages. No Costs. Consequently, M.P.Nos.1 & 1 of 2006 are closed.”

2. Pursuant to the above order, the petitioner was appointed as Grade-II Police Constable, vide proceedings in Na.Ka.No.A2/566/08, dated 30.01.2008 and accordingly, he was sent for training and continuing in service. Thereafter, the petitioner through representation dated 04.11.2019 requested the respondents to fix his seniority on par with the batch mates selected for the year 2001-2003. The said request of the petitioner was rejected by the respondent No.2 by issuing an endorsement bearing C.No.52110/A2/2019, dated 27.04.2021. Aggrieved by the said

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endorsement, the petitioner approached this Court by filing the present Writ Petition.

3. The learned counsel for the petitioner contended that the reason given by the respondent No.2 in the impugned endorsement stating that the petitioner was denied the appointment along with his batch mates as Grade-I Police Constable is not because of the fault of the respondents, but it is only because of the involvement of the petitioner in the criminal case, in which he was acquitted only on 06.10.2003 and the initial denial of appointment is only for justifiable reasons, is totally unsustainable, as the very same issue was already decided by this Court in W.P.(MD)No.11111 of 2006 and he was directed to be appointed as Graded II Police Constable and only back-wages are denied to the petitioner and therefore, he is required to be appointed on par with his batch mates while denying back-wages.

4. The learned counsel for the petitioner has also placed reliance on a proceedings in CPO No.574/ 2019 / C.No.BII(1)13528 / 2019, dated 22.04.2019 in respect of one A.Ramachandran, Grade-I Police Constable-616 and contended that under similar circumstances, the said



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A.Ramachandran was considered for seniority on par with his batch mates and he was extended the benefit and therefore, the petitioner is also entitled for similar treatment on par with his batch mates.

5. On the other hand, the learned Additional Government Pleader submitted that the involvement of the petitioner in the criminal case was deliberately suppressed by the petitioner, while submitting the application for recruitment to the post of Grade-II Police Constable and subsequently, it is only in the police verification, after provisional selection of the petitioner, the same has come to light and subsequently, the petitioner was acquitted in the said crime only on the ground of 'benefit of doubt', but not a clean acquittal before the Court and therefore, the respondents are no way responsible for the delay in appointing the petitioner as Grade-I Police Constable and hence, he is not entitled for seniority on par with his batch mates of the year 2001-2003. To the same effect, counter affidavit has been filed by the respondents.

6. This Court has carefully considered the submissions made on either side and perused the entire materials available on record.



7. When the petitioner was denied the appointment to the post in question in the year 2004, the petitioner approached this Court by filing W.P.(MD)No.11111 of 2006 and this Court by an order dated 08.06.2007, while quashing the impugned order therein, directed the respondents to appoint the petitioner as Grade-II Police Constable. In the said order, the learned Single Judge also observed that the petitioner is not entitled for back-wages. The very fact that this Court has observed that the petitioner is not entitled for back-wages would suggest that the appointment order directed by the Court is with retrospective effect. Whether it is from the date of acquittal of the petitioner from the criminal case or on par with his batch mates is a matter that can be looked into by the respondents, while issuing the appointment order. But under no circumstances, the respondents can be permitted to re-agitate the issue that the petitioner alone is responsible for the delayed appointment and therefore, he cannot be permitted to have the benefit of seniority on par with his batch mates.

8. As rightly pointed out by the learned counsel for the petitioner, the case of one A.Ramachandran was considered by the respondents in respect of the very same recruitment batch of the year 2001-2003. In the said case



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also the said Ramachandran was involved in a criminal case and subsequent to the disposal of the said criminal case and pursuant to the order passed by this Court, the said Ramachandran was appointed on 26.08.2006 and the benefit of seniority on par with his batch mates was extended by the respondents themselves through the proceedings in CPO No. 574/2019/C.No.BII(1)13528/2019 dated 22.04.2019. The petitioner is also similarly placed like the said A.Ramachandran and the fact situation is also very identical. In the circumstances, this Court does not see any reason to deny the benefit that was extended by the respondents themselves to the said Ramachandran, through the proceedings in CPO No. 574/2019/C.No.BII(1)13528/2019 dated 22.04.2019, especially in the light of the orders passed by this Court in W.P.(MD)No.11111 of 2006.

9. In the circumstances, the reason given in the impugned order is wholly unsustainable. Accordingly, the impugned order is set aside with a further direction to the respondents to extend the benefit of seniority to the petitioner on par with his batch mates and by extending the same benefit that was extended to the above said A.Ramachandran, through proceedings in CPO No.574/2019/C.No.BII(1)13528/2019 dated 22.04.2019 and pass



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appropriate orders as expeditiously as possible, at any rate within a period of three months from the date of receipt of a copy of this order. It is made clear that as already observed by this Court in the order passed in W.P. (MD)No.11111 of 2006, the petitioner is not entitled for any back-wages.

10. Subject to the above observations, this Writ Petition is allowed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

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NCC : Yes/No
Index : Yes/No

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