



W.P.(MD)No.11968 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.06.2024

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD)No.11968 of 2024

and

W.M.P(MD)Nos.10652 to 10655 of 2024

P.Puliraja

... Petitioner

vs.

1.The State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
Home (Police-2) Department,
Secretariat,
Chennai – 600 009.

2.The Tamil Nadu Public Service Commission,
VOC Nagar,
Park Town,
Chennai – 600 003.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order passed by the first respondent vide his impugned proceedings in Letter No.10857/Police.2/2023-1, dated 06.05.2024 and quash the same as illegal and consequentially directing the respondents to appoint the petitioner to the post of Deputy



W.P.(MD)No.11968 of 2024

Superintendent of Police under SC(G)PSTM category taking into consideration of petitioner's marks and merit in accordance with law.

For Petitioner	:Mr.M.Ajmal Khan, Senior Counsel for M/s.Ajmal Associates
For R-1	:Mr.J.Ashok, Additional Government Pleader
For R-2	:Mr.J.Anand Kumar

ORDER

Mr.J.Ashok, learned Additional Government Pleader takes notice for the first respondent and Mr.J.Anand Kumar, learned counsel takes notice for the second respondent.

2. The petitioner has filed this writ petition challenging the impugned order passed by the first respondent vide his impugned proceedings in Letter No.10857/Police.2/2023-1, dated 06.05.2024 and to direct the respondents to appoint the petitioner to the post of Deputy Superintendent of Police under SC(G)PSTM category by taking into consideration of the petitioner's marks and merit in accordance with law.



W.P.(MD)No.11968 of 2024

WEB COPY

3. The petitioner who is one of the waitlisted candidates, who had applied to the Post of Deputy Superintendent of Police Category – I through direct recruitment for the year 2019 – 2020 was kept in the reserved list after the selection was completed. Further, two of the selected candidates have not joined because they were found to be medically unfit. Hence, the petitioner has sent a representation to release the reserve list and accommodate him in the existing vacancies arose due to the ineligible two candidates already selected but could not join. G.O.(Ms)No.01 Home (Police.2) Department, dated 02.01.2023 would also show that two of the candidates in the selection list were found to have colour vision deficiency in both the eyes and they were found to be unfit for the said post. Since the request of the petitioner was not considered, the petitioner filed a writ petition for a Mandamus in W.P(MD)No.26946 of 2023 and the same is pending. Pending the writ petition, the petitioner's representation was considered, however, it was rejected by citing the following reasons:

“(i) The eligibility of the candidates who were found to be medically unfit have been sent to the Medical Board for the second time and the report of the second Medical



WEB COPY



W.P.(MD)No.11968 of 2024

Board is obtained and still the same is under active examination of the Government in consultation with the Health and Family Welfare Department; and

(ii)It is further stated that subsequent recruitment was held for the 2021-2022 and hence, earlier selection list will be lapsed in view of Section 3(u) of the Tamil Nadu Government Servants(Condition of Service) Act, 2016.”

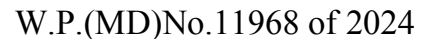
4. By citing the above reasons, the impugned order has been passed stating that the request of the petitioner is not feasible for compliance. The recruitment for the year 2019-2020 has been completed on 18.07.2022. It is not in dispute that the petitioner was very much found in the reserved list drawn in the above selection. It is also not in dispute that two of the selected candidates did not join in view of their medical unfitness. When a vacancy arises in view of the non-joining of the selected candidates due to their own volition or due to medical unfitness, then the operation of the reserve list will be the next step. Since the petitioner was not accommodated by operating the reserved list, he had sent a representation to the respondents. But, without considering the



W.P.(MD)No.11968 of 2024

request placed by the petitioner as early as on 17.04.2023 within a reasonable time, the first respondent had chosen to pass the impugned order on 06.05.2024 after completing the subsequent selecting process for the year 2021-2022 by issuing the impugned order stating that earlier selection lapsed. Therefore, it is clear that the first respondent tried to take advantage of their own fault.

5. The impugned order does not state that the second Medical Board has certified that the two candidates already selected found to be medically unfit. Further, because of the delay caused by the respondents in moving their own file and giving some extra time to the candidates who have found to be medically unfit for proving their fitness before any other board, the petitioner's interest cannot be thrown away stating that the reserved list got expired. If the petitioner did not raise his representation before the next recruitment for the year 2021-2022 as stipulated, it is possible for the respondent to say that earlier reserved list technically got lapsed once the subsequent selection list was published. In view of the delay on the part of the respondents, the petitioner cannot



6. It is to be noted that the petitioner has not only sent a representation to the respondents, but has also filed a writ petition by seeking to consider his representation since the respondents are kept quiet without passing orders on his representation. When the matter is sub judice, then it is unfair on the part of the respondents to cite the next selection for rejecting the representation stating that the petitioner is not feasible for compliance.

6/9



W.P.(MD)No.11968 of 2024

next recruitment in 2021-2022. Therefore, in view of the inordinate delay involved in the matter, the reasons stated for non-compliance of the petitioner's request is also unreasonable. Therefore, I feel that the impugned order is liable to be set aside.

8. In the result, this writ petition is allowed and the impugned order dated 06.05.2024 passed by the first respondent, is set aside. The first respondent is directed to pass orders whether the selected candidates by name Thiru.S.Poovendhan and Thiru. M.Boomathan, were found to be medically fit to the satisfaction of the Department and they were allowed to join or in the absence thereof, to consider the petitioner for appointment if he is found to be fit and pass orders by taking a decision in this regard within a period of four weeks from the date of receipt of a copy of this order. No Costs. Consequently, connected Miscellaneous Petitions are closed.

07.06.2024

NCC: Yes/No
Index : Yes/No
PM



W.P.(MD)No.11968 of 2024

To

WEB COPY

- 1.The Principal Secretary to Government,
State of Tamil Nadu,
Home (Police-2) Department,
Secretariat,
Chennai – 600 009.
- 2.The Tamil Nadu Public Service Commission,
VOC Nagar,
Park Town,
Chennai – 600 003.



WEB COPY



W.P.(MD)No.11968 of 2024

R.N.MANJULA, J.

PM

W.P.(MD)No.11968 of 2024

07.06.2024