



WP(MD) No.13239 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **21.06.2024**

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD) No.13239 of 2024

P.Muthukumar

... Petitioner

Vs.

1.The Director General of Police,
Chennai - 600 004.

2.The Superintendent of Police
Madurai,
Madurai District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order, dated 16.12.2021 passed by the 2nd respondent vide proceedings in C.No.A3/



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37194/2021 and quash the same as illegal and consequently direct the 2nd respondent herein to re-fix petitioner's seniority in the appropriate place on par with his batch-mates selected in the year 2001-2003 in the light of the order, dated 22.04.2019 passed by the 2nd respondent in CPO No.574/2019/C.No.BII(1)13528/2019 within a stipulated time period in accordance with law.

For Petitioner : Mr.C.Senthil Murugan

For Respondents : Mr.S.Shanmugavel

Additional Government Pleader

ORDER

The present writ petition has been filed seeking a Writ of Certiorarified Mandamus to quash the impugned order, dated 16.12.2021 passed by the 2nd respondent vide proceedings in C.No.A3/ 37194/2021 and consequently direct the 2nd respondent herein to re-fix petitioner's seniority in the appropriate place on par with his batch-mates selected in the year 2001-2003 in the light of the order, dated 22.04.2019 passed by the 2nd respondent in CPO No.574/2019/C.No.BII(1)13528/2019.



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2. Heard Mr.C.Senthil Murugan, learned counsel for the petitioner and Mr.S.Shanmugavel, learned Additional Government Pleader appearing for the respondents.

3. By consent of both parties, this writ petition is taken up for final disposal at the stage of admission itself.

4. The petitioner who was selected to the post of Grade-II Police Constable in selection year 2001-2003, could get his appointment in the year 2008, in view of the pending criminal case against him. As the criminal case is ended in acquittal in the year 2003 and thereafter, on the representation made by the petitioner, the order of appointment has been issued on 30.01.2008. Prior to his appointment, the petitioner had also filed a writ petition seeking direction for appointment and in pursuant to the court direction, the petitioner's request was considered and he has been given with appointment order on 30.01.2008.



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5. However, the petitioner had given a representation to the second respondent to fix his salary on par with his batch-mates, who belong to the selection year 2001-2003. However, the same was not considered and rejected by citing Section 40(6) of the Tamil Nadu Government Service (Condition of Service) Act, 2016. The reason stated by citing the said section is that the petitioner has not given any representation within 3 years from the date of his joining and had chosen to give application only after a length of 13 years, his application was rejected.

6. The learned counsel for the petitioner submitted that the second respondent himself has recommended on 04.10.2021 to place the petitioner as last person in the seniority list in the batch of Grade-II Police Constables selected during the year 2001-2003 and now, he has passed an order contrary to his own recommendation.

7. The second respondent who had already recommended to fix the petitioner's seniority in the selection year



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2001-2003 has once again passed the impugned order, dated 16.12.2021 contrary to his own recommendation. After having made the recommendation, the second respondent ought to have allowed the first respondent to seize the matter and pass any orders.

8. The petitioner has cited the earlier decision of this Court passed in **W.P.(MD)No.11221 of 2021 dated 08.03.2024**, wherein, similarly placed persons who got the appointment later, has been given with the benefit of on par treatment with his batch-mates in the matter of seniority. The petitioner claims that he is entitled to the same benefit by setting aside the impugned order.

9. In the light of the earlier judicial pronouncements rendered in this regard as observed already and also taking into consideration of the fact that the second respondent who had already recommended himself passed the impugned order without allowing the first respondent to take a call, I feel the impugned order is liable to be set aside.



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10. In view of the reasons stated above, the writ petition is **allowed** and the impugned order of the second respondent, dated 16.12.2021 is set aside. The first respondent is directed to pass appropriate orders on the recommendation already made by the second respondent, dated 04.10.2021 and also in the light of the earlier judicial pronouncements already made in W.P.(MD)No. 11221 of 2021, dated 08.03.2024 in this regard and pass orders in accordance with law, within a period of four weeks from the date of receipt of a copy of this order. No costs.

21.06.2024

Index : Yes / No
Internet : Yes / No
NCC : Yes / No

RM



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To
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- 1.The Director General of Police,
Chennai - 600 004.
- 2.The Superintendent of Police
Madurai,
Madurai District.



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R.N.MANJULA, J.

RM

Order made in
W.P.(MD)No.13239 of 2024

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