



W.P.(MD)No.14514 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.07.2024

CORAM

THE HONOURABLE MS JUSTICE R.N.MANJULA

W.P.(MD)No.14514 of 2024
and
W.M.P(MD).No.12749 of 2024

M.Palanivel

... Petitioner

Vs.

1.The Director General of Police,
Chennai -04.

2.The Superintendent of Police,
Office of the Superintendent of Police,
Sivagangai 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 of the impugned order in C.A.No.A3/24470/248/2023 dated 06.06.2024 on the file of the second respondent and quash the same and consequently direct the respondents to fix the seniority of the petitioner on par with his batch mates of the year 2010 within the time limit fixed by this Court.

For Petitioner : Mr.RM.Arun Swaminathan
For Respondents : Mr.S.Shanmugavel
Additional Government Pleader



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ORDER

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

2.Heard Mr.RM.Arun Swaminathan, learned counsel appearing on behalf of the petitioner and Mr.S.Shanmugavel, learned Additional Government Pleader, who takes notice for the respondents.

3.The petitioner has filed this petition challenging the order passed by the second respondent in C.A.No.A3/24470/248/2023 dated 06.06.2024 and consequently, to direct the respondents to fix the seniority of the petitioner on par with his batch mates of the year 2010.

4.The petitioner is the Grade I Police Constable. He sent a representation to fix his seniority by placing him along with his batch mates, who were selected during the selection year 2010. Since the request of the petitioner has been rejected on the observation that any application for revision of seniority ought to have been made within three years from the date of cause of action and the petitioner had made his representation only after a lapse of 11 years.



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5. Earlier the petitioner has filed a writ petition in W.P(MD).No.2724 of 2024 seeking direction to consider the said representation and the said writ petition was disposed with a direction to consider the representation of the petitioner. Only in compliance of the said direction, the impugned order came to be passed.

6. The Rule, which was invoked to pass the aforesaid order is Section 40 (6) of the Tamil Nadu Government Servants (Condition and Service) Act, 2016. For better appreciation, the said Rule is extracted hereunder:

“(6) Application for the revision of seniority of a person in a service, class, category or grade shall be submitted to the appointing authority within a period of three years from the date of appointment to such service, class, category or grade or within a period of three years from the date of order fixing the seniority, as the case may be. Any application received after the said period of three years shall be summarily rejected. This shall not, however, be applicable to cases of rectifying orders, resulting from mistake of facts.”

7. Admittedly, the petitioner was issued with the appointment order only in the year 2012 even though he was selected in the year 2009 that too, subsequent to the filing of the writ petition. The petitioner could not be granted with the order of appointment for the reasons which have been put to challenge in the earlier W.P(MD).No.359 of 2011.



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8.The learned counsel for the petitioner submitted that the question of limitation would not arise in his case, as the petitioner came to know that he was not considered along with his batch mates for promotion only when the seniority list was given in the year 2022.

9.The petitioner ought to have adjudicated about his claim regarding seniority immediately after his appointment as he was aware of the fact that he was not given an appointment order for some reasons, at the time when his batch mates received the order. Since the petitioner has suffered the impact of seniority only when the promotion order was given and he came to know that he was placed below his batch mates in fixing the seniority, he had given the representation. Since the petitioner claims that the cause of action for him has arisen only in the year 2022, the representation of the petitioner can be considered on merits without rejecting it on technical reasons of minimum limitation.

10.In view of the above observation, this writ petition is allowed and the impugned order passed by the second respondent in C.A.No.A3/24470/248/2023 dated 06.06.2024 is hereby set aside and the respondents are directed to reconsider the representation of the petitioner and



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pass orders on merits, other than limitation, within a period of four weeks from

the date of receipt of a copy of this order. No costs. Consequently, connected

Miscellaneous Petition is closed.

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NCC:yes/no

Index:yes/no

Rmk

To

- 1.The Director General of Police,
Chennai -04.
- 2.The Superintendent of Police,
Office of the Superintendent of Police,
Sivagangai District.



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R.N.MANJULA, J.

Rmk

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