



W.P(MD)No.19089 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 04.12.2023

DELIVERED ON :11.01.2024

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.19089 of 2023

and

W.M.P(MD)No.15836 & 18903 of 2023

S.Alagarsamy

... Petitioner

Vs.

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

2.The Deputy Inspector General of Police,
Dindigul Range,
Dindigul

3.The Superintendent of Police,
Theni District,
Theni.

4.The Superintendent of Police,
Dindigul District,
Dindigul.

5.B.Thirumalai

... Respondents



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PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the 2nd respondent in connection with the impugned order of drawal of 'C' List of Head Constable (Armourer) fit for promotion to the post of SI of Police Armourer for the year 2023 issued in R.C.No.1614/224/2023, R.O.No.123/2023, dated 17.05.2023 that is being confirmed by the 1st respondent in his impugned proceedings in R.C.No.4045164/NGBV(2)/2023, dated 26.07.2023 in so far as Dindigul Range is concerned and the rejection order passed by the 2nd respondent in his proceedings Na.Ka.No.A1/2755/358/2023, dated 26.06.2023 and the consequential promotion order granted by the 2nd respondent R.O.No.197/2023, Rc.No.A1/1614/224/2023, dated 03.08.2023 and quash the all as illegal and arbitrary and consequently direct the respondents 1 to 4 to include the petitioner in the 'C' list of Head Constable (Armourer) fit for promotion to the post of SI of Police Armourer for the year 2023 and thereby promote the petitioner accordingly with all service and monetary benefits within the time limit that may be stipulated by this Court.

For Petitioner : Mr.K.Gurunathan

For R1 - R4 : Mr.S.Shaji Bino
Special Government Pleader

For R5 : Mr.P.Karthick



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ORDER

The present writ petition has been filed by a Head Constable (Armourer) challenging the drawal of 'C' list of Head Constable (Armourer) fit for promotion as Sub Inspector of Police (Armourer) for the year 2023, dated 17.05.2023. The writ petitioner has also challenged the rejection order, dated 26.06.2023 wherein the respondent has rejected the request of the petitioner to place him in the 'C' list. The petitioner has also challenged the 'B' list of Head Constables included in the 'C' list of Head Constable (Armourer) fit for promotion as Sub Inspector of Police (Armourer) for the year 2023, dated 26.07.2023.

2. Facts leading to the filing of the writ petition are as follows:

(i) The petitioner herein is challenging the inclusion of the 5th respondent in the 'C' list and consequentially in the 'B' list and the promotion of the 5th respondent as Sub Inspector of Police (Armourer) from the post of Head Constable. According to the writ petitioner, the 5th respondent belongs to Madurai range and therefore, his name should not have been included either in the 'C' list or in the 'B' list for being promoted as Sub Inspector of Police (Armourer) in the Dindigul range.



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(ii) The 5th respondent herein was originally appointed as Grade-II Police Constable in the Armed reserve on 01.11.1997 at TSP VII Battalion, Palani and he underwent training at Police Recruitment School, Villupuram. The 5th respondent had completed Armory training on 10.01.2001 and he was transferred to Madurai City Armed Reserve on 10.12.2002. The 5th respondent was later transferred to Chennai City on 24.06.2004 and again he was transferred to Madurai on 25.09.2004. The 5th respondent was transferred to Armory wing from the Armed Reserve for the first time on 26.05.2006 and he was allotted Madurai District.

(iii) While he was working in the Madurai District, he was upgraded as Grade-I PC - Armourer. On request, the 5th respondent was transferred to Theni District on 18.02.2010 where he was promoted as a Head Constable on 08.04.2010. On request, the 5th respondent was transferred from Theni District to Madurai District on 15.02.2016 and posted at Police Recruitment School, Madurai. It is the contention of the 5th respondent that though he was transferred to Madurai, he had retained his lien at Theni District which falls within Dindigul Range. Based upon his seniority in the Dindigul range, the 5th respondent's name was



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included under the impugned 'C' list on 17.05.2023 and consequently included under the impugned 'B' list on 26.07.2023. These 2 orders and the order of rejection of the request of the writ petitioner for inclusion of his name in 'C' and 'B' lists are under challenge.

(iv) The petitioner herein was appointed as Grade-II Police Constable on 01.11.2003 and he was appointed at TSP VII Battalion, Palani and underwent training at Police Recruitment School, Dindigul. On 21.09.2006, he was transferred to TSP X IV Battalion, Palani. The petitioner was transferred to Armed Reserve, Chennai, Sub-urban on 17.12.2008 and retransferred to Dindigul District on 31.08.2009.

(v) The petitioner herein had completed Armourer training on 01.12.2012 and he was moved to the Armourer wing on 20.04.2013. The petitioner was upgraded as Grade-I Police Constable/Armourer on 01.12.2013. At request, the petitioner was moved away from Armourer wing to Motor Transport Wing on 18.11.2016. The petitioner again moved back to Armourer wing on 27.01.2018. The petitioner was promoted as a Head Constable (Armourer) on 02.03.2019. According to the petitioner, he is eligible for the promotion as Sub Inspector



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(Armourer) on 02.03.2023. However, the 5th respondent having been allotted Madurai Range has been treated to be within Dindigul range on the basis of an alleged lien and has been promoted ahead of the petitioner. Hence, the present writ petition.

3. Contentions of the learned counsel appearing for the petitioner are as follows:

(i) The 5th respondent herein on a request transfer, had got transferred himself to Madurai on 15.02.2016. In Madurai, he has been allotted a different mono block. The order of transfer does not indicate that he has retained his lien in Dindigul Range.

(ii) While the 5th respondent was still working at Police Recruitment School, Madurai, claiming that he had got a lien in Dindigul range has got his name included in the 'C' panel and 'B' panel and he has been granted promotion. In fact, after the petitioner had left Dindigul range, his mono block was granted to one Sheik Abdulla and therefore, the petitioner does not have any lien in the Dindigul range after being transferred to Madurai. The promotion order granted to the 5th respondent is in violation of G.O.Ms.No.701 Home (Police – III) Department, dated 09.08.2002.



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(iii) The 5th respondent had got himself transferred from Theni to Madurai range on a request transfer on 15.12.2016. Therefore, after 7 long years, the 5th respondent can never be considered to be holding a lien in Theni District which falls within Dindigul range.

(iv) The 5th respondent had challenged the inclusion of one T.Sekar in the 'C' panel of Dindigul range by filing W.P(MD)No.12841 of 2018. This Court was pleased to dismiss the writ petition on the ground that the 5th respondent herein is working in Madurai range and therefore, he cannot question the promotion granted to one T.Sekar who is working in Dindigul Range. The order of this Court has become final. Therefore, the petitioner cannot claim that he is retaining a lien over Dindigul range despite being transferred to Madurai on a request transfer. If really the petitioner was holding a lien at Dindigul range, he could not have continued in Madurai range for more than 3 years and the salary should have been disbursed only from Theni District. However, the 5th respondent had continued at Madurai range for more than 7 years. This would clearly indicate that the 5th respondent was not working at Madurai range after having a lien at Dindigul range, but permanently posted to Madurai range.



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(v) In Dindigul range, the Head Constable post was shown as vacant and another person, by name Manikandan was accommodated in the said post. In case if the 5th respondent is having a lien over Dindigul range, the post would not have been shown as vacant.

(vi) Once the 5th respondent had left Theni district to Madurai range, his vacancy in the cadre of Grade-I PC was filled up by one Lingadurai on promotion and thereafter, one Manikandan has been appointed in the place of Lingadurai. Therefore, it is clear that the post of the 5th respondent as a Head Constable at Dindigul range was not kept vacant and no lien was retained by the writ petitioner in Dindigul range after being transferred to Madurai range. Hence, he pressed for allowing the writ petition.

4. The contentions of the learned Special Government Pleader appearing for the official respondents are as follows:

(i) The transfer of the 5th respondent from Theni to Madurai though it is a request transfer, the 5th respondent had retained his lien in Dindigul range. The 1st respondent herein by his proceedings, dated 06.03.2018, has clearly pointed out that by mistake, the name of the 5th



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respondent has been removed from the district seniority of Theni district on being transferred to Madurai. The 1st respondent has further pointed out that the mono block of 5th respondent has been erroneously allotted to a different staff. Pursuant to the said orders of the 1st respondent herein, the mono block of 5th respondent which was allotted to one Sheik Abdulla was cancelled and it was reverted back to the 5th respondent by proceedings of the 3rd respondent, dated 04.02.2020.

(ii) The learned Special Government Pleader further relied upon explanation II to Rule 3 of Tamil Nadu Police Subordinate Service Rules to impress upon the Court that the cases of those police personnel working in training colleges, for promotion, shall be taken up for consideration by the respective parent units or by the units from which they are posted. Therefore, according to the learned Special Government Pleader, though the 5th respondent has been transferred to Police Recruitment School, Madurai, his seniority has to be retained at Theni District, Dindigul range. Only in view of the said rule, the petitioner's name was retained in the parent unit, namely the Theni district (Dindigul Range) and whenever vacancy arose for the post of Sub Inspector of Police, the name of the 5th respondent was considered. Hence, he prayed for dismissal of the writ petition.



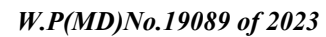
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5. Contentions of the learned counsel appearing for the 5th—

respondent are as follows:

(i) The 5th respondent was appointed as a Grade II Constable on 01.11.1997 whereas the petitioner was appointed as a Grade-II Constable only on 01.11.2003. The 5th respondent has been transferred to Armory wing on 26.05.2006 while the petitioner has been moved to the Armory wing only on 20.04.2013. The 5th respondent was upgraded as Grade-I Police Constable on 01.11.2007 whereas the petitioner was upgraded as a Grade-I Police Constable only on 01.12.2013. The 5th respondent was promoted as Head Constable on 08.04.2010 whereas the petitioner was promoted as Head Constable only on 02.03.2019. The 5th respondent had become eligible for promotion as Sub Inspector of Police on 08.04.2014 whereas the petitioner has become eligible as Sub Inspector of Police only on 02.03.2023. Therefore, viewed from any angle, the writ petitioner is junior to the 5th respondent.

(ii) The promotion panels are being prepared by Deputy Inspector General of Police, Dindigul Range every year. By proceedings dated 29.09.2020, a combined seniority list of Head Constable (Armourer) for drawal of 'C' list fit for promotion as Sub Inspector of Police for the year



(iii) By proceedings, dated 06.03.2018, the 1st respondent herein rejected the request of the 5th respondent claiming seniority over . However, in the same order, the 1st respondent has clearly pointed e 5th respondent is retaining his lien over Dindigul range.

(iv) The 5th respondent has not chosen to challenge the order in W.P(MD)No.12841 of 2018, dated 21.12.2018 only on the ground that Sekar was senior to the writ petitioner and not on the ground that he had



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not retained lien over Dindigul range. Hence, he prayed for sustaining the orders impugned in the writ petition and for dismissal of the writ petition.

6. I have carefully considered the submissions made on either side and perused the material records.

Discussion:

7. The petitioner herein was transferred to Dindigul district as Grade –II Police Constable on 31.08.2009. He was moved to the Armourer wing on 20.04.2013. Right from 31.08.2009, the petitioner is working in Dindigul range. The 5th respondent herein was first appointed to Theni district (Dindigul range) on 18.02.2010. The 5th respondent was promoted as Head Constable in Theni district on 08.04.2010. The 5th respondent was transferred to Police Recruitment School, Madurai on 15.02.2016. These facts are not in dispute.

8. The dispute between the writ petitioner and the 5th respondent herein arises on a point whether the 5th respondent was holding a lien over his Dindigul range after being transferred to Police Recruitment School, Madurai.



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9. The 5th respondent herein has been transferred to Theni on 18.02.2010 as Grade-I Police Constable and he has been promoted as Head Constable on 08.04.2010. As per G.O.Ms.No.701, Home (Police-III) Department, dated 09.08.2002, he became eligible for being promoted as Sub Inspector of Police (Armourer) on 08.04.2013. After becoming eligible for the next promotion as Sub Inspector of Police in Dindigul range, he was transferred to Police Recruitment School, Madurai on 15.02.2016.

10. It is an admitted fact that the petitioner as well as the 5th respondent are governed by the Special Rules for Tamil Nadu Police Subordinate Service Rules. As per Rule 3 Explanation II, the promotions have to be effected by Range Promotion Board. Explanation II is extracted as follows:

“Explanation II- The cases of those working in Police Training College, Madras, Police Recruits' Schools, Vellore and Coimbatore for promotion for which the Range Promotion Board has to consider their cases, shall be taken up for consideration by the respective parent units or by the units from which they are posted.”



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A perusal of explanation II indicates that whenever a police official is transferred to Police Recruitment Schools, the concerned police official's seniority should be maintained by the respective parent units or by the units from which they are posted.

11. In the present case, the 5th respondent herein, who was working as a Head Constable in the Dindigul range from 08.04.2010 onwards was transferred to Police Recruitment School, Madurai on 15.02.2016. Even though the said transfer is a request transfer, the seniority of the 5th respondent should be retained only in the Theni district (Dindigul range) and it cannot be shifted to Madurai district. By mistake, the mono block of the 5th respondent was allotted in favour of one Sheik Abdulla. But later, by proceedings, dated 04.02.2020, the same has been cancelled. The 1st respondent herein by his proceedings, dated 06.03.2018 has clearly pointed out that the 5th respondent would retain his seniority in the parent range, namely Dindigul range and by mistake, his mono block has been allotted to a difference official. Consequently, orders have been passed on 04.02.2020 by the 3rd respondent retaining the said mono block in favour of the 5th respondent. The proceedings of the 1st respondent, dated 06.03.2018 and the 3rd respondent, dated 04.02.2020 are 3 years



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prior to the impugned 'C' list and 'B' list. Therefore, the contention of the writ petitioner that only for getting promotion, the 5th respondent is claiming a lien in Dindigul range is not legally sustainable. Had the 5th respondent being posted to Armourer wing of some other range instead of Police Recruitment School, he would have lost his seniority in the parent range. However, having been transferred to Police Recruitment School, in view of Explanation II to Rule 3 of Tamil Nadu Police Subordinate Service Rules, the seniority of the 5th respondent has to be retained in the parent range, namely Dindigul range. Hence, the contentions of the learned counsel for the petitioner that only for getting promotion, the 5th respondent is claiming lien over the Dindigul range is not legally sustainable.

12. The present writ petition has been filed challenging the 'C' list for the year 2023, which is the panel for promotion as Sub Inspector of Police (Armourer) from the post of Head Constable. Similar 'C' lists were prepared in the year 2020, 2021 and 2022. In all these 'C' lists, the name of the 5th respondent was shown to be eligible for being promoted as Sub Inspector of Police (Armourer). But promotions were not effected in favour of the 5th respondent due to want of vacancy. In all these 'C' lists,



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it is shown that the 5th respondent is working at Police Recruitment School, Madurai and his parent unit is Theni district. The writ petitioner has not chosen to challenge these 'C' lists, wherein the parent unit of the 5th respondent is shown as Theni district. Only vacancy arose in the year 2023, the impugned 'C' list, dated 17.05.2023 has been challenged for the first time by the writ petitioner contemplating that this time 5th respondent is likely to be promoted. The impugned 'B' list is only a consequential order pursuant to the drawal of impugned 'C' list. In the impugned rejection order, dated 26.06.2023, the 2nd respondent has clearly pointed out that when Head Constables are working in Police Recruitment Schools, their seniority has to be maintained in the parent unit relying upon the communication of the 1st respondent, dated 06.03.2018.

13. The learned counsel appearing for the petitioner had mainly relied upon the order of this Court in W.P(MD)No.12841 of 2018, dated 21.12.2018 to contend that this Court has already held that the 5th respondent is working in Madurai unit and therefore, he cannot challenge the 'C' panel list for Dindigul range. Explanation II to Rule 3 of Tamil Nadu Police Subordinate Service Rules was not brought to the notice of



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this Court at the relevant point of time. That apart, the *inter se* seniority between the writ petitioner and the 5th respondent was not put to test in the said writ petition. Therefore, the order of this Court in the said writ petition cannot be a bar for the 5th respondent to contend that Theni district is his parent district and he is senior to the writ petitioner herein.

14. The 5th respondent has been promoted as Head Constable in Theni district in the year 2010, 9 years ahead of the writ petitioner. Only after being eligible for promotion as Sub Inspector of Police within the Dindigul range on 08.04.2014, he was transferred to Police Recruitment School on 15.02.2016. However, the petitioner had become eligible for being promoted as Sub Inspector of Police (Armourer) only on 02.03.2023. Therefore, in view of explanation II to Rule 3 of Tamil Nadu Police Subordinate Service Rules, the seniority of the 5th respondent was rightly retained in the parent district, namely Theni district falling within the Dindigul range. Only if it is a transfer to a foreign service, the question of lien over the substantive post would arise. This is a transfer to the special unit, namely Police Recruitment School at Madurai. Therefore, the word 'lien' has been wrongly used by the authorities. As per explanation II to rule 3 of Tamil Nadu Police Subordinate Service



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Rules, the seniority has to be retained at the parent unit and therefore, it is not a case of lien. Hence, the contentions of the learned counsel for the petitioner that the lien cannot extend beyond a period of 3 years is not legally sustainable.

15. In view of the above said deliberations, there are no merits in the writ petition. Hence, this Writ Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

11.01.2024

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

1. The Director General of Police,
Kamarajar Salai,
Mylapore,
Chennai-600 004.
2. The Deputy Inspector General of Police,
Dindigul Range,
Dindigul
3. The Superintendent of Police,
Theni District,
Theni.
4. The Superintendent of Police,
Dindigul District, Dindigul.



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R.VIJAYAKUMAR,J.

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Order made in
W.P(MD)No.19089 of 2023

Dated:
11.01.2024