



W.P.No.12824 of 2015

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

ORDERS RESERVED ON : 09.12.2024

ORDERS PRONOUNCED ON : 03.03.2025

CORAM

THE HON'BLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.12824 of 2015

A.Vadivelu

... Petitioner

Vs.

- 1.Government of Tamil Nadu,
Rep., by the Principal Secretary to Government,
Home (Police.9) Department,
Fort St. George, Chennai-600 009.
- 2.The Director General of Police,
Mylapore, Chennai-600 004.
- 3.The Additional Director General of Police,
Armed Police, Chennai-600 010.
- 4.The Deputy Inspector General of Police,
Office of the Additional Director General of Police,
Armed Police, Chennai-600 010.
- 5.The Commandant, TSP IInd Battalion,
Avadi.
- 6.The Commandant, TSP X Battalion,



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7.Kumar

Gr.II-PC No.306 DOE-1977,
Retired Deputy Commandant TSP II Battalion,
No.24, IV Street, Jothi Nagar, Chennai-600 109.

8.The Accountant General (A & E),
Office of the Principal Accountant General (A & E),
Chennai-600 018.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorarified Mandamus, to call for the records of the Endorsement of the 4th respondent herein namely the Deputy Inspector General of Police, Office of the Additional Director General of Police, Armed Police, Chennai-600 010, in C.No.A2/29382/2009, dated 17.04.2012, quash para 5 of the impugned order and consequently to issue suitable directions to the 1st respondent herein namely the Government of Tamil Nadu represented by the Secretary to Government, Home (Police.9) Department, Fort St. George, Chennai-600 009, to notionally promote the petitioner to the post of Inspector of Police with effect from the date his immediate junior Thiru Kumar, PC No.306, Retired Deputy Commmandant TSP II Battalion, the 7th respondent herein was promoted on 09.11.1997 pursuant to G.O.(Ms) No.1710, Home (Pol.9) Department dated 23.11.2007, to the said post, with attendant, service and monetary benefits in the said post and consequently direct the first respondent herein to revise and re-fix the pension of the petitioner from 01.03.2014 in the post of Inspector of Police with effect from the said date and



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to pay the arrears out of the said fixation within a short date that may be fixed by this Court.

For Petitioner : Mr.T.Thanjan

For R1 & R4 : Mr.P.Kumaresan
Additional Advocate General
assisted by
Mr.Vadivelu Deenadayalan
Additional Government Pleader

For R8 : Mr.V.Vijay Shankar

ORDER

1.1. The brief facts that are relevant for the disposal of the writ petition are as under:

1.2. The petitioner herein was initially appointed as Police Constable Grade II in Tamil Nadu Special Police on 17.01.1976 and after completion of the basic training, he was allotted to TSP II Battalion as Police Constable (General line). As he was qualified in driving, he gave willingness to serve in Motor Transport Wing and considering his request, the petitioner was posted as Police Constable (Motor Transport) in Motor Transport Wing of Tamil Nadu Special Police on 22.01.1982. While he was working as such, he was placed under suspension and thereafter, he was dismissed from service by order dated



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17.04.1985 on certain charges.

1.3. Aggrieved by the said order of dismissal, the petitioner filed O.A.No.470 of 1989 and T.A.No.337 of 1989 before the Tamil Nadu Administrative Tribunal and the said order of dismissed was set aside by the learned Tribunal by order dated 10.05.1996 directing for reinstatement of the petitioner into service and the entire period from the date of dismissal till the date of reinstatement was directed to be taken into account as duty period for the purpose of continuity of service and for other pensionary benefits. The said order of the learned Tribunal dated 10.05.1996 was confirmed by the Hon'ble Apex Court by order dated 08.07.1997 in SLP (CC) No(s).4625-4626/1997.

1.4. It was thereafter, the petitioner was reinstated into service and he was extended all the benefits in terms of the said order passed by the learned Tribunal. The petitioner was also promoted to the post of Driver Havildar on 30.03.1999 and further promoted to the post of Assistant Motor Transport Officer in the Motor Transport Wing of Tamil Nadu Special Police, that is, in



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the cadre of Sub-Inspector of Police. It was thereafter the petitioner started making a claim for promotion and other benefits on par with Respondent No.7 herein on the ground that Respondent No.7 is junior to him and he was promoted to the post of Inspector in General Line on 17.12.1997 and further promoted as Assistant Commandant and Deputy Commandant on 18.04.2004 and 24.09.2008 respectively. It is on considering the said request of the petitioner, Respondent No.4 passed an order dated 17.04.2012 intimating the petitioner that the petitioner was extended all the benefits in terms of the order passed by the learned Tribunal dated 10.05.1996.

1.5. It is aggrieved by the said endorsement, the petitioner approached this Court by filing the present writ petition contending that the petitioner is entitled for notional promotion on par with Respondent No.7 herein.

2. Respondent No.1 filed counter affidavit and Respondent No.6 filed additional counter affidavit contending that the petitioner on being appointed as Police Constable (General Line) initially, he was posted in the



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Motor Wing in the year 1982 and whereas Respondent 7, who was initially appointed as Police Constable (General Line) was posted to Armourer Wing on 18.08.1984 and further career prospects of the petitioner and Respondent No.7 were considered depending upon the vacancy position in the higher post and in the respective Special Wings. Thus, the petitioner was considered for further promotions in Motor Wing and whereas Respondent No.7 was considered for further promotions in the Armourer Wing. Therefore, the petitioner cannot compare with Respondent No.7 for the purpose of claiming notional promotion on par with Respondent No.7.

3. In nutshell, it is the stand of Respondents No.1 and 6 that Motor Wing and Armourer Wing are two different compartments and the question of comparing one with the other does not arise, especially in the matter of promotion. It is also the further case of Respondents No.1 and 6 that in case if any of the Police Constable in Special Wings intends to go to the General Line, it is always open for them to make such a request and claim seniority in the General Line in terms of their initial appointment as Police Constable Grade-II



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and take their ranking immediately above their junior in the original seniority of Police Constable Grade.

4. Heard Mr.R.Thanjan, learned counsel for the petitioner, Mr.P.Kumaresan, learned Additional Advocate General assisted by Mr.Vadivelu Deenadayalan, learned Additional Government Pleader for Respondents No.1 to 4 and Mr.V.Vijay Shankar, learned counsel for Respondent No.8 and perused the entire material on record.

5. It is not in dispute that the petitioner was posted in Motor Wing as early as in the year 1982 so also Respondent No.7 was posted in Armourer Wing in the year 1984. Since then the petitioner and Respondent No.7 have been continuing in their respective wings and the petitioner never made any request for his transfer to General Line at any point of time till the date of his superannuation of service on 28.02.2014. Whereas Respondent No.7, who was posted in the Armourer Wing was promoted in the said Wing of Tamil Nadu Police and thereafter, on his request, he was transferred to General Line and his



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case was further considered for promotions in the General Line.

6. It is not the case of the petitioner that any of his juniors in the Motor Wing were promoted ahead of the petitioner. The petitioner is only comparing himself with Respondent No.7, who is totally in different Special Wing. As the Motor Wing and Armourer Wing are two different compartments and the petitioner cannot be posted in Armourer Wing, nor Respondent No.7, who is working in Armourer Wing can be posted in Motor Wing for want of requisite qualification for the respective post, the question of the petitioner comparing himself with Respondent No.7 does not arise.

7. The basis for the claim of the petitioner is an order passed by the learned Administrative Tribunal in O.A.No.470 of 1989 and T.A.No.337 of 1989. Though a claim is made basing upon the said order, no factual matrix is placed on record to show that the respondents have not complied with the order passed by the learned Administrative Tribunal.

8. Yet another basis for the petitioner to claim for promotion on par with Respondent No.7 is G.O.(Ms).No.1710, Home (Pol.9) Department, dated



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23.11.2007. In terms of the said Government Order, Tamil Nadu Special Police Subordinate Service Rules, 1978 were amended by duly adding Clause (f) to Rule 24 of the said Rules providing an opportunity to any person serving in any post in the Specialised Category to opt for transfer to General Category. The said Clause also provides that on such transfer to the General Category, such person shall take his seniority immediately above his junior serving in the post in General Category, if he is otherwise qualified to hold the post and seniority at the time of entry into Tamil Nadu Special Police Subordinate Services shall be taken into account. Further, it also provides that a person on the Specialised Category shall not have any advantage in the General Category by virtue of the promotion, if any, earned by him in the Specialised Category, in the event of his transfer from Specialised Category to the General Category either on his option or otherwise. Thus, it is evident that the promotion, if any, acquired by the Police Constable, who is posted in Specialised Wing is available only so long he continued in the said Special Wing and the same will not continue once he opts to General Line. Once he chose to take General Line depending upon his entry in the Special Police Subordinate Services, he has to



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occupy his position immediately above his junior in the said seniority list.

Such a situation would arise only in case a person working in any Special Wing opts to go back to the General Wing.

9. In the instant case, it is not even the case of the petitioner that he has ever opted to go back to the General Line unlike Respondent No.7. Further, there is no material that is placed before this Court to consider the claim of the petitioner for further promotion in terms of his seniority in the general line. Therefore, the question of the petitioner's case for being considered for notional promotion at this stage does not arise.

10. At this stage, it is also necessary to notice that a co-ordinate Bench of this Court having considered similar aspect in W.P.No.24915 of 2010 has been pleased to hold as under:

“9. Now coming to the claim of parity with Paulraj is concerned, I am unable to agree with the contention of the learned Senior Counsel appearing for the petitioner, as there is no enabling Rule which entitles the petitioner to claim the benefit which accrued by virtue of serving the specialized service in a different compartment



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altogether. As rightly pointed out by the learned Senior Counsel, if only the general right of seniority which is deprived of by being posted in special category is affected, then the person was given the right to migrate to general category, claiming the original seniority by virtue of Rule 24 (f) in the Rules which is not the case of the petitioner herein.”

11. In the light of the above, this Court does not find any merit in the Writ Petition and the same is accordingly dismissed. There shall be no order as to costs.

03.03.2025

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

MUMMINENI SUDHEER KUMAR, J.

ABR

To

1. The Principal Secretary to Government,
State of Tamil Nadu,



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Home (Police.9) Department,
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2.The Director General of Police,
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3.The Additional Director General of Police,
Armed Police, Chennai-600 010.

4.The Deputy Inspector General of Police,
Office of the Additional Director General of Police,
Armed Police, Chennai-600 010.

Pre-delivery Order made in
W.P.No.12824 of 2015

03.03.2025