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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.02.2025

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THE HON'BLE Mr. JUSTICE **C.V.KARTHIKEYAN**

W.P.No.16670 of 2024
and
W.M.P.No.18307 of 2024

G.Ragavan

.. Petitioner

Vs.

1.The Director General of Police,
Tamil Nadu Police Department,
Mylapore,
Chennai – 600 004.

2.The Assistant Commissioner of Police,
Greater Chennai Police,
Chennai District.

3.The Superintendent of Police,
Madurai District.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records in connection with proceedings vide Rc.No.2177118/Rect, 1(2)/2022 dated 03.05.2024 passed by the 1st respondent and quash the same as illegal as devoid of merits and direct the respondents to fix the seniority of the petitioner in their recruited batch in the year 2012 in the appropriate place.



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2

For Petitioner .. Mr.G.Thalaimuthurasu

For Respondents .. Ms.P.Vijaya Devi,
Government Advocate

ORDER

This Writ Petition has been filed in the nature of a Certiorarified Mandamus seeking to call for records of proceedings dated 03.05.2024 passed by the 1st respondent and to quash the same. The petitioner seeks that his seniority should be re-fixed in accordance with other candidates who had been recruited in the year 2012 in the appropriate place.

2.In the affidavit filed in support of the writ petition, it had been stated that the petitioner had applied for the post of Grade – II Police Constable in the year 2012 - 2013 and he was successfully completed his written test, physical efficiency test as well as medical test. Subsequently, the respondents had disqualified the petitioner by claiming that a criminal case was pending against him. It is stated that the petitioner had filed W.P.(MD).No.23873 of 2017 and a learned Single Judge of this Court had held as follows by order dated 11.01.2018.



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“The writ petitioner took part in the recruitment process conducted by the first respondent for filling up vacancies in the post of Grade-II Police Constables/Grade-II Jail Warders/Fireman for the year 2012.

2.The writ petitioner was found to be suffering from defective vision. Therefore, he was asked to undergo medical test. The writ petitioner was successful in the medical test conducted by the medical board. But, he was not issued with any orders of appointment. On the other hand, by order dated 06.01.2013, the writ petitioner was informed that he was not qualified to be appointed as Grade-II Police Constable. This was because the writ petitioner was found to have been involved in two criminal cases viz., crime No.301 and 303 of 2015 on the file of Kottampatti Police Station.

3.The materials on record indicate that following the unfortunate death of a girl child in a case of road accident, the public had staged a Dharna. In this regard, criminal cases were registered against a very large number of persons. The writ petitioner was also implicated in the said case. There is no specific or individual overt act attributed to the writ petitioner. That is why, one case was closed as “Mistake of Fact”, while in the other case, investigation was stayed by orders of the Judicial Magistrate. Recruitment process pertains to the year 2012. The criminal cases referred to in the impugned order are of the year 2015. The nature of the criminal cases has also



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been set out already. The Hon'ble Supreme Court in the decision of Avtar Singh Vs. Union of India and Others reported in 2016 (8) SCC 471, held that if the criminal cases in which the candidate is said to have been involved was trivial in nature such as shouting slogans, the employer can ignore the same and condone the lapse. In this case, the writ petitioner has not been involved in a case of moral turpitude. He also belongs to backward class community.

4.Considering all these aspects, this Court is inclined to quash the order impugned in this writ petition and the same is accordingly is quashed. The third respondent is directed to issue appropriate appointment orders in favour of the writ petitioner within a period of eight weeks from the date of receipt of a copy of this order.

5.This writ petition is allowed accordingly. No costs. Consequently, connected miscellaneous petition is closed.”

3. Thereafter, the petitioner had been appointed as Grade-II Police Constable in the year 2015. Now, the petitioner seeks that his seniority should be refixed in accordance with other candidates, who had been recruited in the year 2012 in the appropriate place.

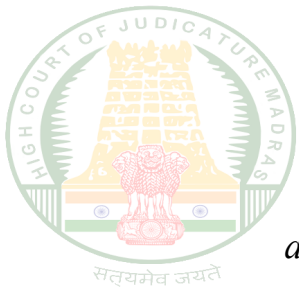


4.It is stated that one *M.Karuppasamy* had filed *W.P.(MD) No.25132 of 2018*, seeking revision of the seniority on par with his batch mates and by an order dated 03.01.2019, a learned Single Judge of this Court had granted the relief sought. The petitioner claims that the same benefit, which had been granted, should also be extended to him.

5.The learned Single Judge had held as follows:

“The petitioner was selected as Grade-II Police Constable in the selection process for the year 2006-2007. However, the candidature of the petitioner was rejected by the competent authority on the ground that the petitioner has involved in a criminal case and was acquitted only on benefit of doubt. Subsequently, in the year 2010, this Court allowed Crl.R.C.No.363 of 2010 filed by the petitioner converting the acquittal into one of honourable acquittal.

2.Subsequently, the petitioner filed a writ petition in W.P. (MD)No.16858 of 2012 before this Court, seeking appointment. The said writ petition came to be allowed by this Court on 26.03.2013. In compliance with the order of this Court, the petitioner was appointed as Grade-II Police Constable on 19.09.2015. Claiming that the petitioner is entitled to seniority



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along with his batch mates recruited in the year 2006-2007 (actual appointment was made on 01.03.2008), the petitioner is before this Court seeking a writ of mandamus.

3.I have heard Mr.Gurunathan, learned counsel for the petitioner and Mr.A.Muthukaruppan, learned Additional Government Pleader for the respondents.

4.The learned counsel for the petitioner would submit that the delay in appointment cannot be attributed to the petitioner. It was because of the wrong rejection of the candidature of the petitioner by the appointing authority, earlier.

5.He would also draw my attention to the proceedings of the Director General of Police, Tamil Nadu in C.No.3362/Rect 1 (2)/2016 dated 11.11.2016, wherein considering the similar case, the Director General of Police directed the Superintendent of Police, Thoothukudi District to fix the seniority of one M.Valai Selvan, who involved in a criminal case, with effect from 01.03.2018 as per Rule 24(d) of TNSPSS Rules. In the said order itself the Director General of Police has referred the judgment of the Hon'ble Supreme Court made in the case of State of Haryana and other vs. Dinesh Kumar, which reads thus:-

“31.In the result, the Civil Appeal arising out of SLP (C) No.1840 of 2007 is dismissed, while the Civil Appeal arising out SLP © No.14939 of 2007 is allowed. The judgment of the High Court dated 22.09.2005, impugned in the said appeal, is set



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aside and the concerned respondents are directed to take steps to issue appointment letters to the appellants in the said appeals subject to fulfilment of other conditions by them. It is also made clear that the appellants will be deemed to have been appointed as Constable-Divers with effect from the date, persons lower in merit to them were appointed. However, while they will be entitled to the notional benefits of such continuous appointment, they will be entitled to salary only from the date of this judgment on the basis of such notional benefits.”

6.In view of the above, this writ petition is allowed and the respondents are directed to fix the seniority of the petitioner with effect from 01.03.2008, i.e., the date on which the other candidates selected in the same batch were appointed. It is made clear that the petitioner will not be entitled to any salary for the said period. No costs.”

6.I hold that the petitioner is entitled for the same relief so far as seniority is concerned. However, he will not be entitled to any arrears of pay for the said period 2012 till the date of appointment.

5.In view of the above reasons, a direction is given that the seniority of the petitioner should also be determined with the recruitment batch 2012



– 2013 within a period of twelve weeks from the date of receipt of a copy of this order. But however, it is made clear that the petitioner would not be entitled to any arrears of pay for the said period 2012 till date of appointment.

6. Accordingly, this Writ Petition stands disposed of. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

21.02.2025

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Index: Yes/No

Internet: Yes/No

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9



C.V.KARTHIKEYAN,J.

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