



W.P.No.33730 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 19.02.2025

Coram:

THE HONOURABLE Mrs.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.33730 of 2023 &

W.M.P.No.33574 of 2023

G. Murugan

... Petitioner

Vs.

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

2.The Commissioner of Police,
Greater Chennai Police,
Chennai – 600 004.

3.The Superintendent of Police,
Office of District Superintendent of Police,
Sivagangai Distict.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 3rd respondent in his proceedings in C.No.A3/E-5353107/171/2023 dated 21.08.2023 quash the same as illegal and arbitrary and consequently direct the 1st respondent to prepare the inter se seniority list and promote the petitioner in the suitable place along with monetary benefits on par with his batch mates with effect from 2012-2013 onwards within time stipulated by this Court.



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For Petitioner : Ms.L.Meenakshi

For Respondents :Mr.R.V. Dinesh Rajkumar
Additional Government Pleader

O R D E R

The petitioner has filed this Writ Petition seeking for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 3rd respondent in his proceedings in C.No.A3/E-5353107/171/2023 dated 21.08.2023 quash the same as illegal and arbitrary and consequently directing the 1st respondent to prepare the inter se seniority list and promote the petitioner in the suitable place along with monetary benefits on par with his batch mates with effect from 2012-2013 onwards.

2. The brief facts of the case, as averred by the petitioner, are as follows:-

(i) The petitioner has completed his schooling and applied for Grade II Police constable in the year 2012-2013 and based on the performance in the physical and written test, he was selected on 24.06.2012 as Grade II Constable. During the police verification, it was found that he was involved in criminal case in Poovanthi Police Station in connection with the Crime No.155 of 2012 for alleged



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offences under Sections 427, 294(b), 323 , 324 and 506(ii) IPC and his name was rejected due to the pending criminal case. While filing the charge sheet before the learned Judicial Magistrate, Sivagangai, his name was removed from the charge sheet . In spite of deletion of petitioner's name from the charge sheet, the 3rd respondent rejected his name from the selection list. The petitioner had no other option, except to file Writ Petition in W.P.(MD) No.2358 of 2013 and this Court directed the respondents to appoint the petitioner as Grade II Police Constable for the batch 2012-2013 by an order dated 26.03.2013.

(ii) Subsequently, the 1st respondent herein preferred an appeal before the Hon'ble Division Bench in WA (MD) 1096 of 2015 and this Court directed appellants to comply with the direction of the learned single judge and as the petitioner's name has been deleted from the charge sheet, he cannot be stated to be involved in the occurrence and the investigating agency has dropped the case against the petitioner. Accordingly, the petitioner was appointed as Grade II Police Constable on 07.02.2019. The order of the Division Bench was 01.11.2018, the petitioner submits that he was appointed on 07.02.2019 with a direction to report for basic training at Ty.PRS St. Thomas Mount, Chennai along with the current batch vide office memo in proceedings in Rc.No.173456 / Rect.1(2)/2018 dated 21.01.2019.



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(iii) After completion of successful training, the petitioner was posted in Armed Reserve, Sivagangai District and presently serving in Greater Chennai Corporation and his registration no. PC 2274. Eventhough the petitioner was selected in the year 2012-2013 and sought for fixation of seniority on par with his batch mates selected for the year 2012-2013, the 3rd respondent has not considered his request and rejected the same on 21.08.2023 in C.No.A3/E/5353107/171/2023, hence this petition.

3. The learned counsel for the petitioner would submit that the petitioner was selected in the year 2013, his application for fixation of seniority list has to be considered, but the authorities have selected the petitioner as Grade II police constable as per the orders of this Court in W.A.(MD)No.1096 of 2015 dated 01.11.2018 and the petitioner was given proceedings posting only after the contempt petition was filed.

4. The learned counsel for the petitioner would also contend that the respondents wantonly denying the seniority and even after the representation was given by the petitioner, the authorities have failed to revise the interse seniority, hence the petitioner is put to severe hardship. Further, the petitioner



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submits that the petitioner should be listed on par with his batch mates and the same has to be considered and the rejection order dated 21.08.2023 has to be quashed. The learned counsel for the petitioner in support of his contention has relied on the Judgment of the Hon'ble Apex Court in **C.Jayachandran Vs. State of Kerala and Others [reported in 2020 3 Supreme 260]**.

5. Per contra, it is the submission of the learned Additional Government Pleader appearing for the respondents that the petitioner is not entitled to the seniority as claimed by the petitioner. If the petitioner was not selected, he should have challenged the selection, but the same has not been done. The petitioner has not come to this Court with the real facts and there is no mistake committed by the respondents, the delay on the part of the respondents is not within their control. The petitioner is involved in criminal case and FIR was registered, therefore, due to the pendency of the criminal case, there cannot be any selection made by including the petitioner and only when the same has been dropped from the charge sheet and then the same was also challenged before this Court, and after the appeal remedy was exhausted, the petitioner was given clean chit and then the petitioner was considered, therefore, the petitioner cannot be treated on par with his batch mates, thereby pleaded to dismiss the petition.



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6. Heard the learned counsel on either side and perused the documents placed on record.

7. It is relevant to note that the petitioner was selected on 24.06.2012 as Grade II Constable and during the police verification, it was found that he was involved in criminal case in Poovanthi Police Station in connection with the Crime No.155 of 2012 for alleged offences under Sections 427, 294(b), 323 , 324 and 506(ii) IPC and hence his name was rejected due to the pending criminal case. Thereafter, while filing charge sheet, the petitioner's name was deleted and thereafter, by an order in W.P.(MD) No.2358 of 2013 and W.A (MD)No.1096 of 2015 dated 01.11.2018, the petitioner's name was considered and the petitioner was sent for training and after completion of training, the appointment order was issued. Now the petitioner is seeking to consider his name along with 2012-2013 batch.

8. Further, Section 40(6) of the Tamilnadu Government Servant (Condition of Service) Act, 2016 indicates that

“Application for 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



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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."

9. Considering the above said facts and circumstances of the case and the fact that on account of pendency of criminal case, the petitioner was not selected during the year 2012-2013 and subsequently, the petitioner's name was deleted while filing the charge sheet and after exhausting the appellate remedy, the petitioner was appointed, therefore, the prayer of the petitioner seeking seniority of par with his batchmates 2012-2013 cannot be granted and the present Writ Petition deserves to be dismissed.

10. Accordingly, the Writ Petition is dismissed. Consequently, connected miscellaneous petition is closed. No costs.

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Index: Yes / No
Internet: Yes/No
ssd
To

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Sivagangai Distict.

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V.BHAVANI SUBBAROYAN., J.

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