

N.Dhanapal Vs. the Director General of Police and ors.

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Court : Chennai

Decided On : Jun-11-2012

Judge : Vinod K.Sharma, J.

Appeal No. : W.P.No.12379 of 2007 (O.A.No.1975 of 2002)

Appellant : N.Dhanapal

Respondent : The Director General of Police and ors.

Advocate for Def. : Mr.V.Jayaprakash Narayanan, Adv.

Advocate for Pet/Ap. : Mr.K.Venkataramani, Adv

Judgement :

PRAYER:This petition came to be numbered by transfer of O.A.No. 1975 of 2002 from the file of the Tamil Nadu Administrative Tribunal, for issuance of a writ in the nature of mandamus, to direct the respondents to consider the claim of the petitioner on par with those who were promoted based on their securing more than 50% marks obtained on the Range Promotion Board and also based on the decision of the Hon'ble Tribunal in O.A.No.2176/91, etc. dt.7.8.1992 being a similarly situated person and promote the petitioner as Sub Inspector of Police, Cat-II and grant him all consequential service and monetary benefits.

ORDER

1. The petitioner was enlisted as a Police Constable in the District Armed Reserve, Trichy district on 10.11.1975. The petitioner was promoted as Head Constable on 11.8.1986. On bifurcation of Perambalur district, the petitioner was transferred to that district in April 1986.
2. According to the Service Rules governing service conditions, any approved probationer in the cadre of Armed Reserve Head Constable is eligible to participate in the Range Promotion Board to be conducted for the preparation of the 'C' list of Head Constable fit for promotion as Sub Inspector of Police, Cat-II.
3. The Director General of Police, issued a memorandum directing the Range Deputy Inspector Generals of Police and Commissioner of Police to convene the Range Promotion Board for the preparation of the 'C' list of Head Constable fit for promotion as Sub Inspector of Police, Cat-II.
4. The petitioner being Head Constable since 11.08.1986, was fully eligible to participate in Range Promotion Board, and accordingly participated in the selection.
5. As per the memorandum, a qualified Head Constable had to secure 50% marks in the written test and viva voce examination, so as to become eligible to participate in the next stage of selection.
6. The petitioner was declared qualified for next stage of selection and was directed to appear for the drill test and viva voce examination. The name of the petitioner did not appear in the select list, whereas number of persons junior to the petitioner were included in the 'C' list published by the third respondent on 21.01.1992.
7. The petitioner has not impleaded any of the selected candidates in the writ petition. The petitioner has challenged their selection on the ground, that non selection of the petitioner is unjust, irregular, illegal and unsustainable in law. The petitioner has made number of representations, which were not answered by the department.

8 It is submitted that the petitioner had secured 68% of the total marks in all the 3 tests conducted by the Range Promotion Board, but it was due to cut off mark, that his name was not included in the 'C' list.

9. The submission of the petitioner is that after 1991, there was no Range Promotion Board conducted in Trichy district except in the year 2000.

10. It is the submission of the petitioner that according to the memorandum issued by the Director General of Police, persons getting 50% marks are eligible and suitable for promotion. Therefore, persons having 50% of the marks was to be included in the 'C' list.

11. It is also the submission of the petitioner that after 1991, number of temporary promotions have been made to the post of Reserve Sub Inspector of Police. Even at that time, the name of the petitioner was not considered. This plea of the petitioner cannot be accepted, as the petitioner has not disclosed the name of any junior to the petitioner who was given temporary promotion without considering the case of the petitioner, nor he has impleaded any such person as party.

12. The submission of the petitioner is that in the year 1991, Head Constables in category I had approached the learned Tamil Nadu Administrative Tribunal, for direction to regularise their service as regular Sub Inspector of Police without undergoing the test in the Range Promotion Board. The said applications were allowed by the learned Full Bench of the Tamil Nadu Administrative Tribunal.

13 The petitioner has approached this Court for issuance of a writ in the nature of mandamus directing the respondents to consider his case for regularisation of his promotion as temporary Sub Inspector of Police, by following the law laid down by the learned Tamil Nadu Administrative Tribunal, in O.A.Nos.2176/91 and other cases.

14. On consideration, I find no merit in this writ petition. The case of the petitioner is not covered by the judgment of the learned Tamil Nadu Administrative Tribunal, in O.A.Nos.2176/91 and other cases. The judgment deals with a separate cadre. The learned Tribunal on appreciation of the facts of said case, came to the

conclusion, that for want of Range test, the persons who were appointed temporarily were to be regularised from the date of initial appointment. This judgment cannot be treated as precedent to be followed in case of all temporary promotion.

15. It is admitted case of the petitioner that he was given an opportunity to compete for promotion, but he failed to come in merit. Therefore, cannot have any grievance, nor could he approach the learned Tribunal to seek such a relief.

16. It is also not disputed that the petitioner now stands promoted as Sub Inspector of Police, therefore, it would not be proper at this stage to direct the respondents to consider his case, by subjecting the petitioner to promotion test for direct recruitment.

No merit. Dismissed.

No costs.

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