
N. Rangaswamy Vs The Director General of Police Mylapore Chennai 4

Writ Petition No. 26778 of 2011

Court: Madras High Court

Date of Decision: Feb. 2, 2012

Acts Referred:

Constitution of India, 1950 " Article 14, 309#Tamil Nadu Police Subordinate Services Rules, 1953 " Rule 3, 39

Hon'ble Judges: Vinod K. Sharma, J

Bench: Single Bench

Advocate: R. Balasubramanian, for the Appellant; R. Ravichandran Addl. Govt. Pleader, for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

Honourable Mr. Justice Vinod K. Sharma

1. As the common questions of law and facts are involved in these writ petitions, they are being disposed of by a common order. For the sake of

brevity ,the facts are taken from WP.No. 26778 of 2011.

2. The petitioner in WP.No. 26778 of 201, has invoked writ jurisdiction of this Court with a prayer for issuance of a writ in the nature of

mandamus, to consider the representation dated 20.12.2010 in exercise of the powers under Rule 39 of the Special Rules of the Tamilnadu Police

Subordinate Service Rules to relax the Rule 3 a (i) and Annexure -I of Special Rules of Tamilnadu Police Subordinates Services" for promotion to

the post of DSP/Assistant Commissioner of Police on seniority, as granted to Mr.Megakumar, Mr. N.K. Kaladaran, R.Raghupathi, Mr. P.

Pandian and Mr.Ravichandran, in view of the judgment passed in W.P. No. 25043/2002 dated 18.9.2007, W.P. No. 16765/2004 dated

21.4.2006 and W.P. No. 1790/2009 dated 29.1.2009.

3. The writ petitions are totally misconceived. The typed set of papers shows that the representation filed by the petitioner stands already rejected

and the copy of the order was also supplied to the petitioner.

4. In spite of the receipt of the order, for the reasons best known to the petitioner, he has not chosen to challenge the rejection order.

5. In the absence of the challenge to order rejecting representation, the prayer for issuance of a writ in the nature of mandamus to consider the

representation again can not be issued.

6. Learned counsel for the petitioner vehemently contended, that the case of the petitioner is governed by G.O.(Ms). No. 1623, Home (POL.V)

Department dated 12.12.2008. A reading of the said Government Order shows that the Government in pursuance of the order passed by this

Court had merely implemented the decision of this Court. The said Government Order cannot give a right to third party to claim promotion. The

Honourable Supreme Court in The Hon"ble Supreme Court in Inderpreet Singh Kahlon and Others v. State of Punjab and Others - 2006 (3)

SCT 725, has been pleased to lay down that a decision is an authority only for what has been decided by it and not what logically can be deduced

therefrom. A ratio of case must be understood having regards to the facts of the case. The Government Order implementing a decision of the

Court is only an administrative order, giving no enforceable right to third party, unless the Government decides to frame rules under Article 309

having statutory force of law. In garb of implementing the order of this Court, the Government can not modify the rules governing the service

conditions. The third party claiming similar relief has to bring its case in four corners of service rule, and take benefit of decision of the Court, if any

law is laid down.

7. The reliance on G.O.(Ms.) No. 349, Home (Police - 3) Department dated 14.3.2008 does not give any right to the petitioner, as the order

implementing the directions of this Court, which cannot be read as a Service Rule giving any right to the petitioner.

8. The service condition of the employees working in the Police Department are governed by Police Rules. The promotion can be claimed under

the Rules, and if any person has been wrongly granted promotion, it may give right to the senior or person affected to challenge the wrong

promotion, but the grant of wrong promotion does not give any right to the third party to claim similar relief by forcing the respondents to commit

illegalities. It is well settled law that one wrong does not give right to other to invoke Article 14 of the Constitution of India.

9. As already observed, the writ petitions are totally misconceived. In spite of rejection of the representation, the petitioners have again sought

direction to the respondents to consider and dispose of the representation, without making out any case under the Rules, which could entitle to

claim promotion. The petitioner has also not chosen to implead the persons, may be juniors and were promoted by violating his right of promotion.

No merit. Dismissed. No costs.