

**Central Administrative Tribunal
Madras Bench**

MA/310/00919/2017 (in)(&) OA/310/00362/2017

Dated 7th February Two Thousand Nineteen

P R E S E N T

**Hon'ble Mr. P.Madhavan, Member(J)
&
Hon'ble Mr.T.Jacob, Member(A)**

V.Gokulakrishnan
S/o Vedhachalam, Sub-Inspector of Police,
Police Department,
Puducherry. .. Applicant
By Advocate **M/s.V.Ajayakumar**

Vs.

1. Union of India rep by the
Director of Police,
Police Department, Puducherry.
2. The Superintendent of Police(Headquarters),
Police Department, Puducherry.
3. Thiru R.Senthilkumar,
Inspector, Mahe Circle,
Police Department, Mahe.
4. Thiru P.K.Sajith
Sub-Inspector, Traffic PS,
Police Department, Puducherry.
5. Thiru S.Prabakarn
Sub-Inspector, HQ,
Police Department, Puducherry.
6. Thiru K.Shanmugam,
Sub-Inspector, Thirunallar
PS(Karikal Region),
Police Department, Puducherry.
7. Thiru Duggudurtty Suresh Babu,
Sub-Inspector, Traffic Villianur,

Police Department, Puducherry.

8. Thiru Kesavan,
Sub-Inspector,
Villianur PS,
Police Department, Puducherry.

9. Thiru S.Diagaradjane
Sub-Inspector, Odiean Salai PS,
Police Department, Puducherry.

10. Thiru B.M.Manoj,
Sub-Inspector, HQ,
Police Department, Puducherry.

11. Thiru V.Purushothaman,
Sub-Inspector,
Thavalakuppam PS,
Police Department, Puducherry.

12. Thiru N.Shanthy
Sub-Inspector, PAP,
Police Department, Puducherry.

.. Respondents

By Advocate **Mr.R.Syed Mustafa(R1&2)**

ORDER

[Pronounced by Hon'ble Mr.P.Madhavan, Member(J)]

This is an OA filed seeking the following relief:-

“To call for the records of the respondents with No.7250/Pol/Estt.I(A)/A2/2014 dated 8.3.2014 in respect of the seniority list of Sub-Inspector of Police and to quash the same regarding the seniority of respondents and to fix the seniority of the applicant by placing him at seniority No.257 and consequently to direct the respondents 1 and 2 to give all consequential benefits to the applicant including further promotions seniority and difference of wages and to pass such other or further orders in the interest of justice and thus render justice.”

2. The applicant is working as Sub-Inspector of Police under the respondents. According to him, he is a person entitled to get reservation under Meritorious Sports Quota (MSP) as he has participated in the Asian Games and got a silver medal in 1997. The respondents in this case were not calling for appointment under MSP Quota and in the year 2004 the respondents published a notification for 2 vacancies under MSP quota. The applicant had submitted an application and he had cleared all the ground test and other tests for selection. Eventhough selection was completed in the year 2004 itself for the post of SI under Sports Quota, the respondents did not give any appointment and they did not publish the result immediately. The applicant approached the Tribunal with OA 683/2007 and the Tribunal has directed the respondents to publish the select list and also directed the respondents that if the applicant is selected, he must be sent for training alongwith other candidates without delay. In the meanwhile, the respondents had issued a notification in the year 2005

calling for selection of Sub-Inspector in the General Quota and 22 persons were selected in the said list. On 31.12.2007 the respondents had published a notification stating that applicant was selected as a first candidate in the MSP Quota and the respondents had issued appointment order on 28.1.2008. On 14.10.2009, the 1st respondent had issued a letter stating that the seniority of the applicant will be fixed above the persons recruited as per notification issued in 2005. On 14.6.2010, the 2nd respondent had published a seniority list of Sub-Inspectors and the name of the applicant was not seen included. The applicant made a representation against the non-inclusion of the name of the applicant in the seniority list. On 08.3.2014, the 2nd respondent issued a revised seniority list and the applicant's name was shown in the seniority position 322 and the date of appointment to the post of the year 2010. According to the applicant, his name ought to have been placed at the seniority position 257 ie., after the batch of 2003. Eventhough the applicant had given several representation, they were not considered by the respondents. In the meanwhile, the respondents had also issued a letter on 14.10.2009 stating that he will be placed in the seniority list as first candidate of the 17th batch. According to the applicant, the 17th batch was recruited in the year 2005 and it is highly illegal to place him below 2005 batch. The respondents are promoting various persons ignoring the seniority of the applicant. So, the applicant was compelled to file an application before this Tribunal and he seeks to quash the proceedings of the seniority list prepared by the 2nd respondent and publish a fresh seniority list. The applicant has also produced Annexures A1-A8.

3. The respondents filed a detailed statement denying the averments in the OA but they had admitted that they had not followed the reservation quota of 5% of the vacancies for MSP Quota, and now the 2 vacancies were notified under MSP Quota in the year 2004. They also admitted that the applicant had applied for the post and they had issued selection notification showing the applicant as selected. But according to the respondents, that one R.Tirounavoucarrassou approached the Tribunal with OA 656/2006 for a direction to consider and appoint him on MSP Quota. In the meanwhile, the department has notified 10 vacancies for Direct Recruitment on 15.12.2005. The number of vacancies were later increased to 18. The selection was conducted and result was not published and the above candidates had filed OA 683/2007 for a direction to the respondents to publish the results. As per the direction of the Tribunal, they had published results on 31.12.2007. The applicant was No.1 and M.Ramamoorthy was the 2nd person in the MSP Quota. So, according to the respondents, selection notification was published on 31.12.2007 and the applicant was appointed as SI on 28.1.2008. The 2nd person Ramamoorthy was not appointed as two certificates produced by him was not recognised by Government of India. He had filed OA 495/2008 before the Tribunal and the Tribunal had directed the respondents to fix his seniority w.e.f. 31.12.2007. The applicant is not entitled to get seniority position of Sl.No.257 as per the DOPT OM No.20011/1/2006-Estt.(D) dated 03.3.2008 wherein it is decided that for the purpose of rotation and fixation of seniority, the actual year of appointment has to be taken into consideration. But,

according to the respondents, as per the OM issued by the DOPT dated 03.3.08, the applicant is not entitled to get any fixation of seniority.

4. We have heard the counsels appearing for the applicant and the respondents. On going through the pleadings and records produced in this case, it can be seen that the recruitment for the post of MSP Quota was initiated in the year 2004 and the recruitment process started immediately. The various tests were conducted but the result above was not published for no reasons stated by the respondents. It has come out in the pleadings that the applicant had to file OA 683/07 for a direction to the respondents to publish the result. Accordingly, result was published and he was appointed in the year 2008. On going through the pleadings and annexures, it can be seen that the respondents had not published any reservation for MSP in the earlier notification. On filing of the OA by the applicant the respondents had stated that they are going to recruit separately under MSP Quota and accordingly the said OA filed by the applicant was closed. Accordingly, the respondents had published notification for recruitment under MSP Quota in the year 2004. The applicant was selected as No.1 and the result was not published till the end of 2007. Again the applicant filed OA 683/07 and as per the direction of the Tribunal the result was published on 31.12.07. From the above, it can be seen that the respondents were not at all interested in declaring the result for reasons not known till 31.12.07. Owing to the compulsion from the Tribunal they have published the result which is produced as Annexure A4. Thereafter, on 28.1.08 the applicant was issued an offer of appointment as Annexure A5. As per Annexure A6 issued by the Superintendent of Police, Puducherry, the

applicant was to be given seniority at Sl.No.1 above the 17th batch recruited in the year 2005. But when the seniority list was published in 2010, the name of the applicant was not included and the applicant had filed OA 822/03 before the Tribunal. As per the order of the Tribunal the seniority list was recasted and the applicant was given seniority No.322 and the date of appointment was shown of 2010. According to the applicant, the OM referred by the respondents in the reply statement is not at all valid at present as a fresh OM was issued by the department of DOPT dated 04.3.14 and the earlier OM dated 03.3.08 was withdrawn. As per the said OM, the recruitment year would be the year of initiating recruitment process against a vacancy year. It is also clarified that the vacancy year would be the date of sending of requisition of filling up of vacancies to the recruitment agency. In the case, it can be seen that the year of vacancy recruitment is 2004 and the notification was published in the year 2004 and recruitment process was started. Eventhough the selection was over, the respondents had not published the result till 31.12.07 without any reasons. It was only after a direction of the Tribunal the result was published on 31.12.07. So, it is clear that the selection of the applicant was not published owing to one reason or other by the respondents till the year 2007. In the meanwhile, a Direct Recruitment has taken place and 18 persons were appointed on the basis of the said notification. Eventhough the applicant ought to have been given seniority above the 2005 batch, the respondents has not given the same. There is no explanation offered in this respect by the respondents. The only explanation offered is that the 2nd person in the list has not produced proper certificate showing the MSP. It is not a satisfactory

reason for denying the seniority which he is expected to get if the results are properly published and appointed. The applicant was the first person selected and he had produced valid certificates showing his merits for MSP Quota immediately on selection and he was appointed also. So, the applicant should have been given seniority in the year in which recruitment process was initiated i.e. 2004. There is no merit in the contention raised by the respondents against giving seniority as the OM of the DOPT issued on 03.3.08 was withdrawn. So, the applicant is entitled to get his seniority reviewed in the light of the above observation.

5. In the result, the respondents are directed to review the seniority position of the applicant considering the recruitment year as 2004 and give appropriate remedy to the applicant. OA is disposed off with the said direction. As we are passing order in OA itself, MA 919/2017 for interim injunction stands closed. No costs.

(T.Jacob)
Member(A)

(P.Madhavan)
Member(J)

07.02.2019

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