



Cont.P.No.445 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 18.08.2026
DELIVERED ON : 21.08.2026

CORAM :

THE HONOURABLE MR. SUSHRUT ARVIND DHARMADHIKARI,
CHIEF JUSTICE

AND

THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

Contempt Petition No.445 of 2022
and Rev. Appl. No.214 of 2022

Cont.P.No.445 of 2022:

T.P. Thiyagaranan
Special Sub Inspector of Police,
R-4, Pondy Bazaar Traffic Investigation,
T.Nagar, Chennai – 600 017.

Petitioner(s)

Vs

1. S.K. Prabakar
State of Tamilnadu,
Rep. by its Secretary to Government,
Home Department, Chennai - 600 009.
2. C.Sylendra Babu, I.P.S.,
Director of Police, Tamilnadu, Mylapore,
Chennai - 600 004.
3. Shankar Jiwal, I.P.S.,
Commissioner of Police,
EVK Sampath Salai, Vepery,
Chennia - 600 007.

Contemnor(s)



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Rev.Appl.No.214 of 2022:

1. State of Tamil Nadu
Rep. by its Secretary to Government,
Home Department, Chennai-600 009.
2. The Director General of Police
Tamil Nadu, Mylapore, Chennai-4
3. The Commissioner of Police
EVK Sampath Salai, Vepery,
Chennai-600 007.

Appellant(s)

Vs

T.P.Thiyagarajan
SSI (HC 11628), R4 Pondy Bazaar,
Traffic Investigation, T. Nagar,
Chennai-600 017.

Respondent(s)

PRAYER in Cont.P.No.445 of 2022: Petition filed under Section 11 of the Contempt of Courts Act, 1971 to punish the respondents herein for willfully and contumaciously disobeying the order passed by this Court in W.A.No.1657 of 2021, dated 06.09.2021.

PRAYER in Rev.Appln.No.214 of 2022: Petition under Order XLVII Rule 1 read with Section 114 of the Civil Procedure Code to review the order dated 06.09.2021 passed in W.A.No.1657 of 2021 and allow this Review Application.



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For Petitioner(s) in Mr. S.Baskaran
Cont.P.No.445/2022
and Respondent(s) in
Rev.Appl.No.214/2022:

For Respondent(s) in Mr.P.V.Balasubramaniam
Cont.P.No.445/2022 Additional Advocate General
and Applicant(s) in assisted by Mr.R.Veeramani,
Rev.Appl.No.214/2022: Special Government Pleader

COMMON ORDER

The Chief Justice

The State has filed the review application to set aside the judgment dated 6.9.2021 passed in Writ Appeal No.1657 of 2021. The respondent filed the contempt petition alleging non-compliance with the directions issued in that writ appeal.

2. For ready reference, the parties are arrayed as per their rank in the writ appeal.

3. The undisputed facts are that the respondent joined service as a Grade-II Police Constable in the Armed Reserve, Chennai City Police, on 25.5.1988. In 1998, he was transferred to the Taluk Police on his own willingness. Thereafter, he was upgraded as



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Grade-I Police Constable, Head Constable and Special Sub-Inspector of Police (SSI). In 2019, he reached the zone of consideration in the Taluk Police 'C' list for promotion to Sub-Inspector. However, he expressed his unwillingness to take up the promotion and continued in the Taluk Police.

4. The respondent filed W.P.No.18315 of 2018 seeking a promotion on a par with his batchmates who had remained in the Armed Reserve or Motor Transport Wing. He claimed that his batchmates were promoted ahead of him based on their original recruitment date.

5. The learned Single Judge allowed the writ petition by order dated 20.8.2019. The Court held that all police personnel recruited through a common selection process must receive equal promotional opportunities regardless of their wing.

6. The State challenged the order passed by the learned Single Judge in W.A.No.1657 of 2021. The Division Bench dismissed the appeal on 6.9.2021.



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7.1. Learned Additional Advocate General appearing on behalf of the appellants submitted that promotions in the Armed Reserve and Taluk Police are governed separately under Rule 3(a)(i), Annexure-I of the Tamil Nadu Police Subordinate Service Rules, and Police Standing Orders (PSO 37 to 44) and that the method of promotion stipulated for Armed Reserve Police and Taluk Police is entirely different, but this crucial statutory distinction was not considered in the earlier batch of cases relied upon by the learned Single Judge and Division Bench.

7.2. He further submitted that once the respondent moved to the Taluk Police in 1998 and completed three years of service there, his lien in the Armed Reserve stood terminated under Rule 14 of the Fundamental Rules.

7.3. He also submitted that the decision in N.K.Kaladaran and another v. State of Tamil Nadu and others [Order dated 18.9.2007 passed in W.P.No.25043 of 2002] pertains to personnel within different wings of the Armed Reserve itself (Motor Transport vs.



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General Line). It did not deal with personnel who voluntarily transferred to the Taluk Police.

8.1. Learned counsel for the respondent submitted that all contentions raised by the learned Additional Advocate General were previously presented before the Division Bench and considered in detail and, in any event, the State cannot re-agitate settled issues in a review application.

8.2. It is further submitted that the respondent has retired from service and, therefore, the court may direct the State to enforce the Division Bench order notionally for pensionary benefits, while treating this case not as a precedent for future matters.

9. We have heard learned counsel on either side and perused the documents on record.

10. Before advertng to the merits of the contentions, it is apposite to refer to certain passages from the order dated 20.8.2019 passed by the learned Single Judge which read thus:



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"The petitioners in both the writ petitions seek for grant of promotion on the basis of their seniority to be fixed from the date of entry into service in the Police Department as the criteria to be adopted uniformly for all the Police Personnel regardless of their posting in Motor Transport Wing, Armed Reserve and Local Police or in any other Wing.

2. When the writ petitions are taken up for hearing, the learned counsel appearing for the petitioners would submit that the issue has been settled in favour of the petitioners by a Division Bench of this Court, vide its order dated 18.09.2007. The Division Bench of this Court in W.P.No.25043 of 2002 has directed the Department to grant promotion to the petitioners therein on the basis of their date of recruitment. The operative portion of the legal finding by the Division Bench order dated 18.09.2007 is extracted hereunder:

'5. A perusal of the order passed by the Tribunal discloses that what has been stated in paragraphs 5, 6, 7, and 8 of the counter has been extracted in the order and the claim of the petitioners has been rejected without looking into the relevant Rules. We are not satisfied with the reasonings given by



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the Tribunal in dismissing the application filed by the petitioners. **Therefore in the absence of Special Rules and information regarding how these three departments, namely, Motor Transport Wing of the City Police, Chennai, Armed Reserve Police and Local Police are being treated as distinct departments, for promotional avenues to the persons, who are appointed under one recruitment and posted in the above three departments, we are unable to understand why the petitioners' names have not been included in the 'C' list.** To a specific question put forth by this Court as to how the personnel in the Armed Reserve are getting promotions prior to the persons working in Motor Transport Wing of the City Police, Chennai, the only explanation offered by the Department is that the persons working in the Motor Transport Wing of the City Police, are being paid Special pay of Rs.40/- initially and then Rs.60 and now Rs.120/-. The said ground cannot be a criteria for denying the promotion to the persons working in the Motor Transport Wing



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of the City Police, Chennai. **The right to promotion should be only based on the principle of seniority. Except saying that these three departments are distinct, no materials whatsoever has been placed before this Court under what circumstances and what Special Rules these Departments are treated as distinct. Therefore, we are satisfied that to meet the ends of justice, it is appropriate to direct respondent 1 to 3 to consider the date of recruitment as the basis for fixing seniority and effect promotion and to include the names of the petitioners in the 'C' List and give promotions to them.** Accordingly, the order passed by the Tribunal is set aside and writ petition is allowed. No costs."

3. ... According to the learned counsel for the petitioners, **in pursuance of the directions of both the Division Bench as well as the learned single Judge, series of orders were issued by the Government implementing the same by granting promotion to various Police Personnel to the next avenue of promotion, as per their**



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entitlement on the basis of seniority fixed irrespective of their posting whether in the Motor Transport Wing Department, Armed Reserve Wing or in the General Wing etc.

4. The learned counsel for the petitioners would submit that even in 2012, yet another learned Judge of this Court in W.P.(M.D.) Nos.2688, 2689 and 2690 of 2012 passed a similar direction, vide its order dated 12.10.2012. The learned single Judge has extracted the observations of the Division Bench order, as extracted above and allowed the writ petition as under:

'17. In this case again, there is no material on record to show that seniority is not joint seniority for all the constables or that there are two separate cadre. As already noticed above, the averments made in the writ petition go un-rebutted. The writ petitions are squarely covered by decision of the Honourable Division Bench in N.K.Kaladaran and another vs. the State of Tamil Nadu, represented by its Seretary to Government, Home



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**Department, Fort St.George, Chennai-9
(supra).**

18. Consequently, all these writ petitions are allowed and the respondents are directed to consider the case of the petitioners for promotion to the post of Sub-Inspector of Police, from the date of their juniors i.e. Respondents 4 to 7 were promoted. The compliance be done within one month of the receipt of certified copy of this order.”

...

8. As regards the direction passed by the Division Bench and the learned single Judge of this Court, the learned Special Government Pleader would submit that the direction is enforceable only to the individuals, who were covered under those cases and not to others. He would further submit that the proposal has been sent to the Government requesting orders to amend the existing rule regarding the maintenance of common seniority for the police Personnel of Armed Reserve and Motor Transport Wing, vide proceedings dated 17.04.2010 and the Government Orders are yet to be passed in the matter and therefore, the petitioners cannot stake any claim for parity in treatment on behalf of the Police Personnel from general line.



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9. This Court is unable to appreciate as to how such stand by the Department could be accepted and relief to the petitioners denied. ***When identically placed Police Personnel have approached this Court and the Division Bench of this Court has directed to fix their seniority taking into consideration the date of recruitment, the same criteria have to be adopted in the present case as well and promotion to be effected.***

10. ***Admittedly, all these petitioners along with others either in the General line or in the Armed Reserve were recruited through common exercise and posted in various wings like Motor Transport Wing, Armed Reserve and General line etc. When such is the admitted position, this Court is unable to countenance as to how their promotion could depend on the Wing in which they are posted and working. Therefore, giving promotion to the Juniors of the petitioners in other Wings and denying the same to the petitioners, is discriminatory, arbitrary, unreasonable, irrational and defy the equality clause enshrined in the Constitution of India."***

[emphasis supplied]



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11. As against the said order, the State filed an appeal and the same was dismissed with the following observations:

"3. The primary contention putforth by the appellants is that the respondent, who was appointed in Armed Reserve as Grade II Police Constable, was transferred to Local Police, on his own volition, in the year 1998. On completion of service in Taluk Police for more than 3 years, his lien in the Armed Reserve is deemed to have been terminated under Rule 14 of the Fundamental Rules. Further, according to the appellants, once a person is transferred from one wing to another wing, at request, the said person will lose his seniority and he will be placed at the bottommost seniority in the new wing and thereafter, he will have to claim promotion to the next higher post based on the seniority existing in the new place of joining. The appellants would also contend that the respondent cannot claim seniority on par with his juniors who opted to remain in the Armed Reserve and got promotions for vacancies that arose in Armed Reserve. Further, if the prayer of the respondent is accepted, it will affect the seniority of eligible candidates, who opted



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to remain in Armed Reserve and create disparity. **Besides, when the respondent has been bestowed with promotions upto the rank of Special Sub Inspector of Police as per his seniority in Taluk Police, his grievance is not well-founded.** Hence, the appellants would submit that learned Single Judge was wrong in giving a direction to grant the benefit of promotion to the next higher post to the respondent/writ petitioner on the basis of his date of recruitment within a period of four months.

4. We are unable to accept the stand taken by the appellants. The contention of the appellants that a proposal has been sent to the Government requesting orders to amend the existing rule regarding maintenance of common seniority for the Police Personnel of Armed Reserve and Motor Transport Wing and till such orders are passed, the respondent/writ petitioner cannot stake any claim for parity in treatment on behalf of the Police Personnel from General Line, was not accepted by the learned Single Judge. **The learned Single Judge has rightly held that when identically placed police personnel have approached this Court and when the Division Bench has granted the relief**



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of promotion taking into consideration the date of recruitment, the same criteria needs to be adopted in respect of the petitioner as well and promotion to be effected. The learned Single Judge, based on the pleading, came to the conclusion that the writ petitioner along with others, either in General Line or in the Armed Force were recruited through common exercise and posted in various wings like Motor Transport Wing, Armed Reserve and General Line, etc. That being the admitted position, the learned Single Judge was unable to countenance the stand of the appellants that the promotion would depend upon the wing in which the respondent was posted and working. Besides, **the learned Single Judge observed that giving promotion to the juniors of the writ petitioner in other wings and denying the same to the respondent/writ petitioner will be discriminatory, arbitrary and unreasonable apart from being irrational and denying equity clause enshrined in the Constitution of India.**

[emphasis supplied]



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12. A bare perusal of the orders passed by the learned Single Judge and the Division Bench makes it clear that all the contentions now advanced by learned Additional Advocate General have been threadbare dealt with and negatived.

13. The scope of review is very limited. It is well settled that the power of review can be exercised for the correction of a mistake, but not to substitute a view. The review court does not sit in appeal over its own order. A rehearing of the matter is impermissible. It constitutes an exception to the general rule that once a judgment is signed or pronounced, it should not be altered. An error which has to be established by a long-drawn process of reasoning on points where there may conceivably be two opinions can hardly be said to be an error apparent on the face of the record.

14. In our considered view, the review jurisdiction cannot be used as an appeal in disguise to re-hear arguments that have already been considered.



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15. Admittedly, the respondent has retired from service.

Therefore, re-opening settled seniority lists at this point would lead to administrative uncertainty. Balancing equity with the legal framework, we pass the following directions:

- (a) Review Application No.214 of 2022 is dismissed.
- (b) The State shall grant the respondent the benefits of the order passed by the Division Bench on a purely notional basis up to his date of retirement. His pension shall be revised accordingly. He will not be entitled to any monetary arrears for the period prior to his retirement.
- (c) To maintain administrative stability, this decision is rendered in the specific facts of this case and shall not be treated as a precedent for other serving or retired police personnel who voluntarily transferred between cadres.
- (d) In view of the directions issued above, Contempt Petition No.445 of 2022 is closed.



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There shall be no order as to costs.

(SUSHRUT ARVIND DHARMADHIKARI,CJ) (G.ARUL MURUGAN,J)
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THE HON'BLE CHIEF JUSTICE
AND
G.ARUL MURUGAN,J.

(sasi)

Contempt Petition No.445 of 2022
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