

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.06.2017

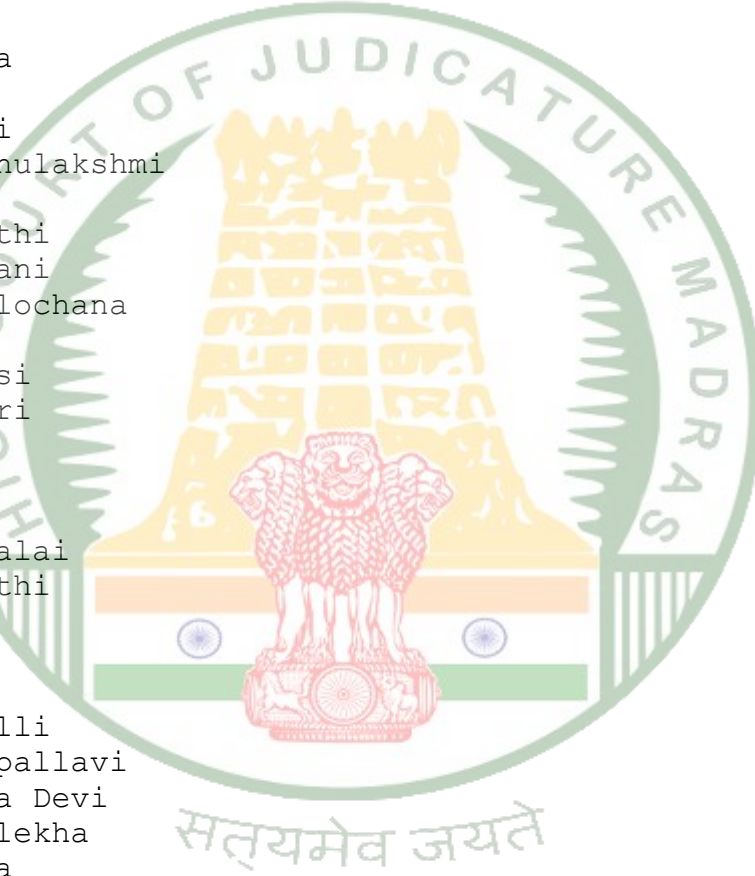
CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.Nos.36260, 1827 of 2015, 4355, 9939 of 2016 & 2761 of 2017

W.P.No.36260 of 2015:

- 1 C.Sasikala
- 2 M.Malathi
- 3 Chitradevi
- 4 Pandi Muthulakshmi
- 5 M.Baby
- 6 S.Padmavathi
- 7 R.Dheivarani
- 8 C.Raja Sulochana
- 9 T.Latha
- 10 S.Elavarasi
- 11 V.Madeswari
- 12 D.Lakshmi
- 13 A.Kavitha
- 14 E.Selvi
- 15 N.Manimegalai
- 16 S.Rakkumathi
- 17 M.Manjula
- 18 R.Gomathi
- 19 P.Gomathi
- 20 I.Sornavalli
- 21 J.Sri Anupallavi
- 22 T.Parimala Devi
- 23 T.Chandralekha
- 24 M.Anuradha
- 25 S.Bala Kiruthiga
- 26 R.Kavithalakshmi
- 27 A.Vimila
- 28 B.Rathidevi
- 29 B.Divyakumari
- 30 B.Barani
- 31 M.Ambika
- 32 K.Sarasumani
- 33 T.Vijaya
- 34 K.Kavitha



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.. Petitioners

-vs-

- 1 Secretary to Government
Home Department
Fort St. George
Chennai - 600 009
- 2 Director General of Police
Chennai - 600 004
- 3 D. Subashini
- 4 D. Kavitha
- 5 R. Amsaveni .. Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorari Mandamus, to call for the records relating to the impugned order passed by the second respondent herein in his proceedings bearing Rc.No.1010/NGB.V(1)/P-08/C-List 2014-15/2015 dated 31.10.2015 and quash the same and consequently direct the official respondents herein to publish the Seniority List of Women Sub Inspectors of Police recruited for the year 2001-2002 as per Rules and make further promotions to the Post of Inspector of Police Taluk, in accordance with law, within a time frame.

For Petitioners :: Mr.R.Singaravelan
Senior Counsel for
Mr.R.Jayaprakash

For Respondents :: Mr.K.Venkataramani
Additional Advocate General
assisted by
Mr.V.Jayaprakash Narayanan
Special Government Pleader
for R1 & 2

Mr.M.Muthappan for R3 & 5

Mr.Sathish Parasaran
Senior Counsel
for Mr.Sricharan Rangarajan
for R4

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W.P.No.1827 of 2015:

P.Sankareswari

.. Petitioner

-vs-

1 The Secretary to Government
Home (Police) Department
Secretariat Fort St. George
Chennai 600 009

2 The Director General of Police
Dr.Radhakrishnan Salai
Mylapore
Chennai 600 004

... Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus, directing the respondents herein to include the name of the petitioner in the panel of Sub Inspector fit for promotion to the post of Inspector of Police 2013-2014 batch strictly in accordance with proviso to Rule 25 of the Special Rules of Tamilnadu Police Subordinate Service along with her batch mates who were recruited in the year 2001-2002 batch by considering the representation dated 4.12.2014 preferred by the petitioner in the light of the G.O.Ms.No.196 Home (Police) department dated 8.3.2005.

For Petitioner :: Mr.P.N.George Graham for
M/s Devadason and Sagar

For Respondents :: Mr.K.Venkataramani
Additional Advocate General
assisted by
Mr.V.Jayaprakash Narayanan
Special Government Pleader
for R1 & 2

W.P.No.4355 of 2016:

1 M.Josephine Lourdu Mary
2 S.Prabavathi
3 R.Kavitha
4 J.Kavitha
5 P.Aruljothi
6 D.Sujatha
7 P.Vijayalakshmi
8 P.Sulochana
9 T.Gomathi

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10 P.Vijayakumari
11 S.Geetha
12 R.Ezhilarasi
13 A.Kokilambal
14 G.Mahalakshmi
15 R.Bhuvaneswari
16 M.Nallammal
17 J.Sangeetha Anbujuviet
18 R.Sornarani
19 M.Kausarnisha
20 K.Bhuvaneswari
21 K.Usha
22 R.Raja Nalayini
23 M.Joselin Arulselvi
24 J.Annapoorani
25 M.Allirani
26 N.Bharathipriya
27 G.Janci Rani
28 B.Sumathi
29 N.Anu Ratha
30 D.Kavitha
31 R.Muthulakshmi
32 R.Gomathi
33 R.Rani
34 R.Indira
35 J.Vichitramary
36 M.Rajeshwari
37 A.Anitha
38 M.Subbulakshmi
39 T.Rajeshwari
40 P.Vijayalakshmi
41 S.Balakiruthiga
42 A.Allirani
43 M.Velu Devi
44 K.Vinola @ Rahamadh Nisha
45 V.Sasikala

Petitioners

-vs-

- 1 Government of Tamil Nadu
Rep. by its Principal Secretary
Home Department
Fort St. George
Chennai 600 009
- 2 The Director General of Police
Chennai 600 004
- 3 D.Subashini

4 D.Kavitha
5 R.Amsaveni

.. Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, calling for the concerned records from the respondent Nos.1 and 2 and quash the same G.O.Ms.No.461 Home (Pol.VI) Department dated 10.6.2009 issued by the first respondent in so far as amending Rule 25 of the Special Rules for the Tamil Nadu Police Subordinate Service inserting proviso to effect that seniority of the Sub Inspectors of Police directly recruited from the Departmental Quota will be fixed above the direct recruits selected for open quota in the same year and G.O.Ms. No.196 Home (Police III) Department dated 8.3.2005 issued by the first respondent in so far as protecting the seniority of Personnel who complete the training at later point of time from the regular batch and the order dated 31.10.2015 issued by the second respondent bearing Rc.No.1010/NGB.V(1)/P-08/C List 2014-15/2015 as illegal, arbitrary and contrary to law and consequently direct the Respondent Nos.1 and 2 to draw the seniority list of Women Sub Inspectors of Police recruited for the year 2001-2002 in accordance with Rules and effect promotions to the post of Inspector of Police on the basis of the seniority list so drawn and in accordance with law.

For Petitioners :: Mr.Balan Haridas

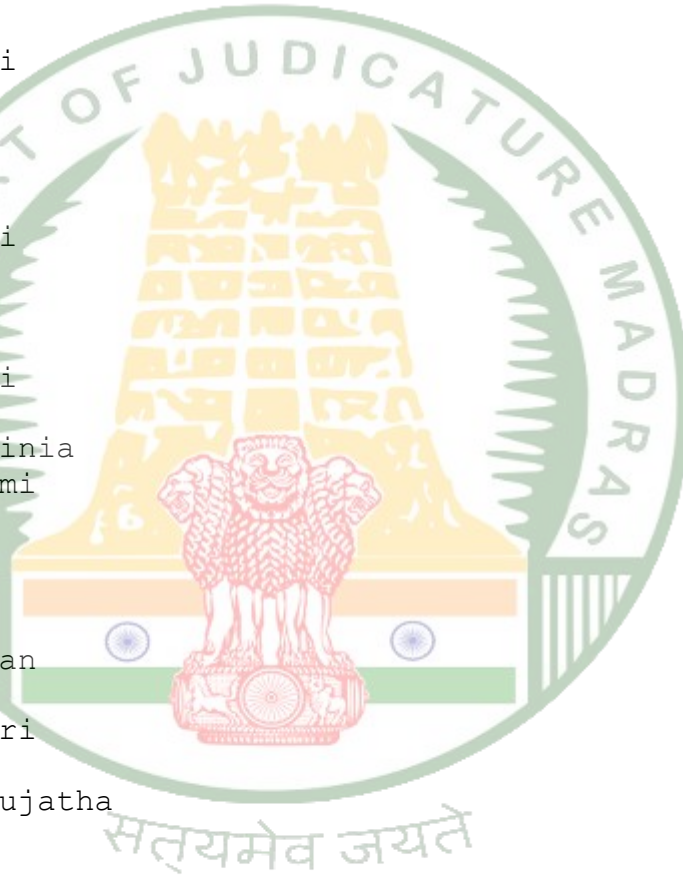
For Respondents :: Mr.K.Venkataramani
Additional Advocate General
assisted by
Mr.V.Jayaprakash Narayanan
Special Government Pleader
for R1 & 2
Mr.M.Muthappan for R3 to 5

W.P.No.9939 of 2016:

1 C.Jansi Rani
2 S.Vembarasi
3 M.Sudha
4 P.Kannika
5 L.Sumathi
6 S.Vethavelli
7 K.Pondevi
8 K.Shenbegadevi
9 V.Annalakshmi
10 J.Anitha
11 K.Vasanthi

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12 V.Gomathi
13 N.Malathi
14 P.Sangeetha
15 V.Rosaline Savio
16 N.Rajakumari
17 B.Pasupathi
18 R.Thilagavathi
19 G.Selvakumari
20 P.Kavitha
21 P.Sangareswari
22 K.Punitha
23 A.Suba
24 K.Saraswathy
25 C.Nandini Devi
26 P.Manonmani
27 A.R.Anitha
28 G.R.Chitra
29 P.Prema
30 P.Thamizharasi
31 P.Mahalakshmi
32 R.Sangeeth
33 L.Saraswathy
34 P.Subbulakshmi
35 A.Sasikala
36 G.Selvi Veriginia
37 S.Vijayalakshmi
38 P.Rekhamathi
39 M.Shagin
40 P.Ulagarani
41 C.Rameshwari
42 M.L.Priya Mohan
43 N.Parvathy
44 P.Senthilkumari
45 G.Latha
46 X.Catherine Sujatha
47 S.Priya
48 T.Selvi
49 M.Karpagam
50 A.Amutha
51 K.R.Rani Muthu
52 S.Sukadevi
53 M.Kalaivani
54 V.Vanitha
55 D.Manonmani
56 S.Beula
57 Usha Nandhini
58 M.Anandhivedhavalli
59 N.Vanitha
60 M.Valarmathi



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61 S.Sumathy
62 S.Savithiri
63 S.Nagalakshmi
64 R.Ramani .. Petitioners

-vs-

1 Government of Tamil nadu
Rep.by Principal Secretary
Home Department
Fort St.George
Chennai 600 009

2 The Director General of Police
Mylapore
Chennai 600 004

3 D.Subashini
4 D.Kavitha
5 R.Amsaveni .. Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, calling for the records of the first respondent in G.O.Ms.No.196, Home (Police III) Department dated 08.03.2005 in so far as it directs the protection of seniority of the Sub-Inspector of Police who complete the training at a later point of time and in G.O.Ms.No.461, Home (POL.VI) Department dated 10.06.2009 in so far as amending Rule 25 of the Tamil Nadu Police Subordinate Service Rules directing the fixation of seniority of the Sub Inspectors recruited in the departmental quota above the direct recruits selected and appointed in the same year and the consequential promotion orders of the second respondent made in favour of the respondents 3 to 5 in Rc.No.1010/NGB.V(1)/P-08/C List 2014-15/2015 dated 31.10.2015 and quash the same and further direct the respondents 1 & 2 to draw the seniority list of Women Sub Inspectors of Police recruited for the year 2001-2002 in accordance with Rules and effect promotions to the post of Inspector of Police on the basis of the seniority list so drawn.

For Petitioners :: Mr.S.Kamadevan

For Respondents :: Mr.K.Venkataramani
Additional Advocate General
assisted by
Mr.V.Jayaprakash Narayanan
Special Government Pleader

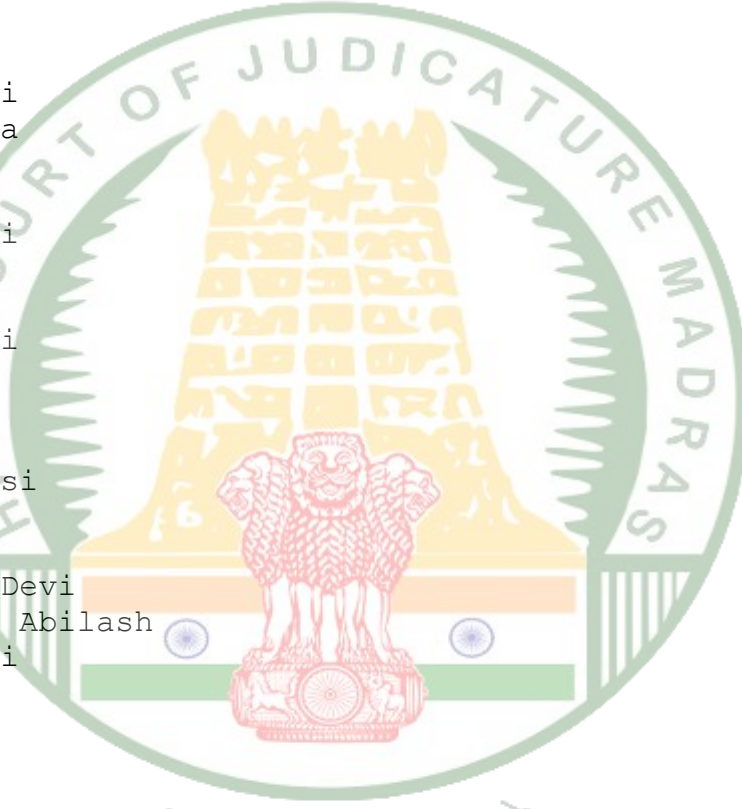
for R1 & 2

Mr.M.Muthappan for R4 & 5

No appearance for R3

W.P.No.2761 of 2017:

- 1 K.Valarmathi
- 2 P.Renugadevi
- 3 V.Shanthi
- 4 P.Parimaladevi
- 5 P.Yasodhadevi
- 6 R.Amneeswari
- 7 Jothimani
- 8 M.Menaka
- 9 S.Vinothini
- 10 T.B.Praveena
- 11 S.Sasikala
- 12 A.Subashini
- 13 V.Padmavathi
- 14 K.P.Sujatha
- 15 R.Sumathi
- 16 S.Prabavathi
- 17 K.Arunasree
- 18 J.Karpagam
- 19 C.Savitha
- 20 M.Kalaiyarasi
- 21 P.Indrani
- 22 H.Maheswari
- 23 P. Shanthi Devi
- 24 Chitra, W/o Abilash
- 25 R.Praba Devi
- 26 R. Amudha
- 27 Jayasuda
- 28 P.Kavitha
- 29 D.Sujatha
- 30 R.Mageshwari



Petitioners

-vs-

- 1 The Secretary to Government
Home (Police) Department
Secretariat
Fort St. George
Chennai 600 009
- 2 The Director General of Police
Dr.Radhakrishnan Salai
Mylapore
Chennai 600004

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3 J.Gajalakshmi
4 V.Sunanda
5 J.Shyamala
6 G.Lakshmi
7 P.Sankareswari

.. Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, calling for the records of the second respondent in Rc.No.5111/1212/NGB.V(1)/P-10/'C' List/2016 dated 22.12.2016, quash the same and consequentially direct the respondents 1 and 2 herein to fix up the seniority of the petitioners above the respondents 3 to 7 herein and other similarly placed persons like respondents 3 to 7 and further include the names of the petitioners in the ''C'' List of Sub Inspector of Police (Taluk) fit for promotion to the Post of Inspector of Police in accordance with Rule 25 of the Special Rules for Tamil Nadu Police Subordinate Service, 1953 and in pursuance of which, issue promotion orders appointing the petitioners as Inspectors of Police (Taluk).

For Petitioners :: Mr.P.H.Arvind Pandian
Senior Counsel for
Mr.C.V.Shailandhran

For Respondents :: Mr.K.Venkataramani
Additional Advocate General
assisted by
Mr.V.Jayaprakash Narayanan
Special Government Pleader
for R1 & 2
Mr.P.N.George Graham for
M/s Devadson & Sagar for R7
No appearance for R3 to 6

सत्यमेव जयते
ORDER

These five writ petitions have been filed by the respective petitioners with the following prayer. W.P.No.36260 of 2015 has been filed by 34 directly recruited Women Sub Inspectors of Police challenging the impugned order passed by the Director General of Police, Chennai, the second respondent in proceedings bearing Rc.No.1010/NGB.V(1)/P-08/C-List 2014-15/2015 dated 31.10.2015, to quash the same with a consequential direction to the official respondents herein to publish the Seniority List of Women Sub Inspectors of Police recruited for the Year 2001-2002 as per Rules and make further promotions to the Post of Inspectors of Police Taluk in accordance with law within a time frame.

1.1. W.P.No.1827 of 2015 has been filed by the petitioner-P.Sankareswari seeking a mandamus directing the respondents herein to include the name of the petitioner in the Panel of Sub Inspector fit for promotion to the post of Inspector of Police 2013-2014 batch strictly in accordance with proviso to Rule 25 of the Special Rules of Tamilnadu Police Subordinate Service along with her batch mates who were recruited in the year 2001-2002 batch by considering the representation dated 4.12.2014 preferred by the petitioner in the light of the G.O.Ms.No.196 Home (Police) department dated 8.3.2005.

1.2. W.P.No.4355 of 2016 has been filed by 45 directly recruited Women Sub Inspectors of Police challenging G.O.Ms.No.461 Home (Pol.VI) Department dated 10.6.2009 issued by the first respondent in so far as amending Rule 25 of the Special Rules for the Tamil Nadu Police Subordinate Service inserting proviso to the effect that seniority of the Sub Inspectors of Police directly recruited from the Departmental Quota will be fixed above the direct recruits selected for open quota in the same year and G.O.Ms. No.196 Home (Police III) Department dated 8.3.2005 issued by the first respondent in so far as protecting the seniority of Personnel who complete the training at later point of time from the regular batch and the order dated 31.10.2015 issued by the second respondent bearing Rc.No.1010/NGB.V(1)/P-08/C List 2014-15/2015 as illegal, arbitrary and contrary to law and consequently direct the Respondent Nos.1 and 2 to draw the seniority list of Women Sub Inspectors of Police recruited for the year 2001-2002 in accordance with Rules and effect promotions to the post of Inspector of Police on the basis of the seniority list so drawn and in accordance with law.

1.3. W.P.No.9939 of 2016 has been filed by 64 directly recruited Women Sub Inspectors of Police challenging G.O.Ms.No.196 Home (Police III) Department dated 08.03.2005 in so far as it directs the protection of seniority of the Sub-Inspector of Police who complete the training at a later point of time and in G.O.Ms.No.461 Home (POL.VI) Department dated 10.06.2009 in so far as amending Rule 25 of the Tamil Nadu Police Subordinate Service Rules directing the fixation of seniority of the Sub Inspectors recruited in the departmental quota above the direct recruits selected and appointed in the same year and the consequential promotion orders of the second respondent made in favour of the respondents 3 to 5 in Rc.No.1010/NGB.V(1)/P-08/C List 2014-15/2015 dated 31.10.2015 and quash the same and further direct the respondents 1 & 2 to draw the seniority list of Women Sub Inspectors of Police recruited for the year 2001-2002 in accordance with Rules and effect promotions to the post of Inspector of Police on the basis of the seniority list so drawn.

1.4. W.P.No.2761 of 2017 has been filed by 30 directly recruited Women Sub Inspectors of Police challenging the order passed by the second respondent in Rc.No.5111/1212/ NGB.V(1)/P-10/C List/2016 dated 22.12.2016, to quash the same with a consequential direction to the respondents 1 and 2 herein to fix up the seniority of the petitioners above the respondents 3 to 7 herein and other similarly placed persons like respondents 3 to 7 and further include the names of the petitioners in the ''C'' List of Sub Inspector of Police (Taluk) fit for promotion to the Post of Inspector of Police in accordance with Rule 25 of the Special Rules for Tamil Nadu Police Subordinate Service, 1953 and in pursuance of which, issue promotion orders appointing the petitioners as Inspector of Police (Taluk).

2. Heard Mr.R.Singaravelan, learned senior counsel, Mr.P.H.Arvind Pandian, learned senior counsel, Mr.Balan Haridas, Mr.P.N.George Graham & Mr.S.Kamadevan, respective learned counsel for the petitioners, Mr.K.Venkataramani, learned Additional Advocate General assisted by Mr.V.Jayaprakash Narayanan, learned Special Government Pleader for the State and Mr.Sathish Parasan, learned senior counsel, Mr.M.Muthappan, Mr.P.N.George Graham, respective learned counsel for the contesting respondents.

3. The respective learned senior counsel for the petitioners contended before me that the amendment to Rule 25 of the Special Rules for Tamil Nadu Police Subordinate Service by inserting a proviso to the effect that the seniority of the Sub Inspectors of Police directly recruited from the departmental quota shall be fixed above the direct recruits selected from open quota in the same year, is without any legal basis. When the process of selection in respect of departmental candidate and the open quota candidate is one and the same, the candidates taking part in the open quota should undergo the physical efficiency test and without passing the test, the departmental candidates cannot be placed enmass above the open quota candidates in the same way. It was also further contended that the official respondents have not drawn up the seniority list of Sub Inspectors of Police recruited for the year 2001-2002. While so, the action of the second respondent in promoting the contesting respondents to the post of Inspectors of Police is not based on any material on record. Adding further, it was contended that without drawing the seniority list and publishing the same, the second respondent cannot arbitrarily by pick and choose method promote the contesting respondents, particularly when the petitioners are seniors to them. It was also contended that the G.O.Ms.No.461 dated 10.6.2009 having not been till date gazetted, the same has not come into force and in respect of G.O.Ms.No.196 dated 8.3.2005, the rule has not been amended.

Therefore, the impugned order dated 31.10.2015 promoting the contesting respondents temporarily to the post of Inspector of Police is unacceptable and unjustifiable. Hence the same is liable to be set aside. The respective learned counsel for the petitioners also raised several other grounds.

4. But for brevity, to conclude the issue, it is pertinent to refer to the stand taken by the official respondents in the counter affidavit filed by them. The counter affidavit filed in W.P.No.36260 of 2015 almost admits the case of the petitioners. Therefore, it is necessary to extract the relevant paragraphs of the said counter affidavit, as follows:-

"18. With reference to the averment in ground (a) of the affidavit, it is respectfully submitted that the orders issued granting temporary promotion to the respondents 3 to 5 herein is in accordance with the rules and sustainable in law. The respondents 3 to 5 herein were also appointed and commenced their training in the year 2004. As they could not continue their training due to pregnancy, they were permitted to complete the training in the year 2005.

20. With reference to the averments in ground (c) of the affidavit, it is respectfully submitted that about 76 candidates were sent for training in the year 2005. These includes the following categories:-

(i) Those like respondents 3 to 5 herein who had commenced their training in the year 2004 and who could not continue their training due to pregnancy.

(ii) Those who were pregnant and were declared as "temporary unfit" by the Medical Board.

(iii) Those who were declared as unfit in the Medical Examination and who had preferred on appeal and declared fit by the second Medical Board.

(iv) Those who were appointed from the waiting list against the vacancies arisen out of the candidates who were found unfit in police verification and medical examination.

Some of these candidates belonging to the above category (ii) above have filed Writ Petitions seeking to fix their seniority from 2004 and this Hon'ble Court has given directions to consider their representation and pass orders. In this connection necessary proposals have been sent to the Government and the same is in process. Hence the seniority list of directly recruited Sub Inspectors of Police for the year 2001-2002 could not be finalized. However the seniority fixation of the respondents 3 to 5 herein has been in accordance with rules and that there is no discrimination as alleged."

Similarly, one another admission made by the official respondents, in paragraph-27 of the counter affidavit filed in W.P.No.4355 of 2016, reads as follows:-

"27. With reference to the averments in ground (g) of the affidavit, it is submitted that the necessary rule amendments have been issued to the Special Rules for the Tamil Nadu Police Subordinate Services with G.O.Ms.No.448, Home (Pol.6) Department dated 11.06.2012 providing seniority protection to pregnant candidates. Regarding seniority of 20% departmental quota candidates, a proposal has been sent to the Government for giving the retrospective effect to the amendment w.e.f. 02.06.1997."

5. The above admission in paragraph-27 of the counter affidavit filed in W.P.No.4355 of 2016 clearly shows that only a proposal has been sent to the Government and the same is under process. Equally the admission in paragraphs 18 & 21 of the counter affidavit filed in W.P.No.36260 of 2015 also clearly shows that the seniority list till date has not been finalized. Therefore, no promotion shall be given without finalising the seniority list in the manner known to law. It is at this stage, the learned Additional Advocate General submitted that the official respondents will prepare the seniority list after carrying out the necessary amendment giving priority to 20% of departmental quota candidates.

6. Since the proposal for fixation of seniority to 20% of departmental quota candidates also has not been materialised, this Court directs the respondents to do the needful, if necessary, for fixing 20% seniority to the departmental quota candidates based on the proposal sent to the Government and after carrying out the necessary amendment in the Special Rules for Tamil Nadu Police Subordinate Service. Thereafter, the

respondents shall prepare the seniority list after obtaining necessary objections from the concerned person. In the meanwhile, if any person has been given promotion temporarily, the same need not be disturbed. Needless to mention that once the seniority list is finalised, they have to work out by giving due place to all the persons and if necessary, by reverting the persons who were wrongly given promotion temporarily. The said exercise shall be done within a period of three months from the date of receipt of a copy of this order. With these observations, all the writ petitions are disposed of accordingly. Consequently, M.P.Nos.1 to 3 of 2015, W.M.P.Nos.24847, 3717, 3754, 8914, 8915 of 2016, 2700, 2701 of 2017 are closed. No costs.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

ss

To

1 The Secretary to Government,
The Principal Secretary,
Home (Police) Department
Secretariat Fort St. George
Chennai 600 009

2 The Director General of Police
Dr.Radhakrishnan Salai
Mylapore
Chennai 600 004

+1cc to M/s.Sricharan,Advocate,S.R.No.44845

+2cc to M/s.M.Muthappan,Advocate,S.R.No.44984 and 44963

+1cc to M/s.R.Jaya Prakash, Advocate,S.R.No.44787

+1cc to M/s.S.Kamadevan,Advocate,S.R.No.45380

W.P.Nos.36260 of 2015 etc.

SCD(CO)
CU(19/07/2017)