

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 12.01.2018

DELIVERED ON: 19.01.2018

CORAM:

THE HON'BLE MR. JUSTICE V. PARTHIBAN

W.P. No.7146 of 2010 & M.P. No.1 of 2013

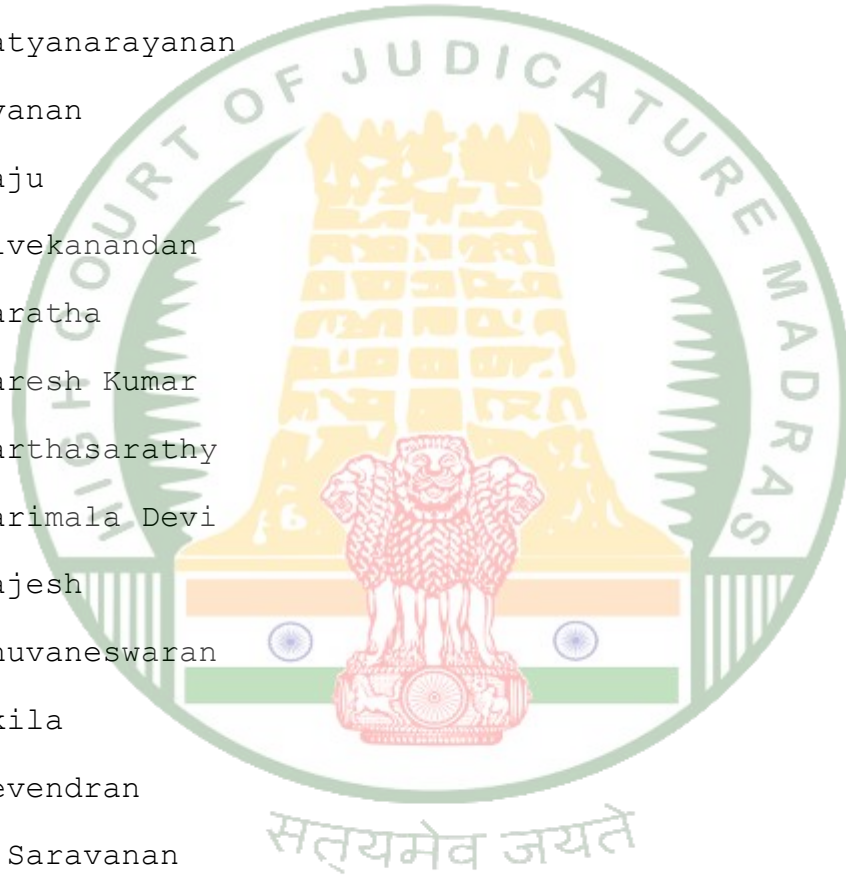
P.K. Murugan
Sub-Inspector (Technical)
Police Telecommunications Branch
District Police Office
Collectorate Complex
Virudhunagar

Petitioner

vs.

- 1 State of Tamil Nadu
represented by the Principal Secretary to Government
Home Department
Secretariat
Chennai 600 009
- 2 The Director General of Police
Chennai 600 004
- 3 The Deputy Inspector General of Police
Technical Services
Chennai 600 004
- 4 C. Anandakumar
- 5 P. Krishnasamy
- 6 S. Maheswaran
- 7 S. Sekar
- 8 K. Gokulakannan
- 9 R. Vijayasekaran
- 10 S. Ravikumar
- 11 H. Arun Kumar
- 12 J. Janorious Fausta
- 13 M. Uma Devi

- 14 K. Radha
- 15 M. Suresh Kumar
- 16 M. Uma Maheswari
- 17 P. Hemalatha
- 18 N. Jagadeesan
- 19 R. Raja
- 20 R. Satyanarayanan
- 21 Saravanan
- 22 B. Raju
- 23 B. Vivekanandan
- 24 R. Saratha
- 25 N. Naresh Kumar
- 26 U. Parthasarathy
- 27 S. Parimala Devi
- 28 D. Rajesh
- 29 M. Bhuvaneshwaran
- 30 V. Akila
- 31 M. Devendran
- 32 K.M. Saravanan
- 33 K. Srinivasan
- 34 P.K. Ajitha
- 35 A. Sundar
- 36 K. Madhanmohan
- 37 A. Sundaravadivelu
- 38 P. Manjula



WEB COPY

39 M.K. Shanthi

40 N. Chitra

Respondents

(RR 5 to 11 impleaded vide order dated 27.03.2013 passed in M.P.No.1 of 2012)

(RR 12 to 18 impleaded vide order dated 27.03.2013 passed in M.P.No.2 of 2013)

(RR 19 to 27 impleaded vide order dated 13.11.2017 passed in W.M.P.No.19584 of 2017)

(RR 28 to 38 impleaded vide order dated 13.11.2017 passed in W.M.P.No.25046 of 2017)

(RR 39 & 40 impleaded vide order dated 13.11.2017 passed in W.M.P.No.26178 of 2017)

Writ Petition filed Article 226 of the Constitution of India seeking a writ of certiorarified mandamus calling for the records in the order bearing Rc.No.A3/24279/97 dated 13.02.2007 issued by the third respondent and the consequential order bearing Rc.No.42214/Rect.II(2)/2007 dated 10.03.2010 issued by the second respondent and quashing the same and directing the respondents 1 to 3 to re-fix the seniority of the petitioner in the cadre of Sub-Inspector (Technical) only on the basis of his marks obtained in the suitable test conducted in the Police Telecommunication Branch, Technical Training School, as per Rule 10(b) of the ad hoc Rules relating to the posts of of the technical categories of the Police Telecommunication Branch in Tamil Nadu.

For petitioner Mr. M. Radhakrishnan

For RR 1 to 3 Mr. T.M. Pappiah
Special Government Pleader

For RR 4 & Mr. M. Ravi
RR 28-38

For RR 5-11 Mr. N.G.R. Prasad
for M/s. Row & Reddy

For RR 12-18 Mr. K. Thilageswaran

For RR 19-27 Mr. K. Venkataramani, Sr. Counsel
for Mr. R. Abdur Rahman

For RR 39 & 40 Mr. M.V. Venkataseshan

ORDER

Shorn of the minute details, the relevant facts and circumstances necessitating the filing of this writ petition are stated hereunder:

1.1 The petitioner was appointed as Sub-Inspector (Technical) in the year 2001, along with 152 Sub Inspectors (Technical), through the Tamil Nadu Uniformed Services Recruitment Board. The appointment of the Sub-Inspectors (Technical) is governed by the ad hoc rules framed by the Government vide G.O. Ms. No.53, Home (Police IX) Department dated 18.01.1999. As per the ad hoc rules, the following qualifications are prescribed:

"5. Qualifications:

(a) Age - No person shall be eligible for appointment to the post of Sub-Inspector (Technical) if he has completed or will complete the age of thirty years on the first day of July of the year in which the selection for appointment is made.

(b) Other qualification - No person shall be eligible for appointment to the post of Sub-Inspector (Technical) unless he possesses the following qualifications, viz.:

(i) Must possess a minimum general education qualification;

(ii) (a) A second class Diploma in Electronics and Communication Engineering awarded by the State Board of Technical Education, Tamil Nadu; or

(b) Degree in Electronics and Communication Engineering or its equivalent:

Provided that other things being equal preference shall be given to the holders of a Degree in Electronics and Telecommunications Engineering;

. "

The holders of the post shall be under the technical control of the Director, Police Telecommunication Branch, Chennai, in terms of Rule 8 of the ad hoc rules.

1.2 According to the petitioner, the posts of Sub-Inspector (Technical) and Sub-Inspector of Police are different and the posts are not interchangeable. This fact has not been disputed by the official respondents.

1.3 The personnel recruited as Sub-Inspectors (Technical) are required to discharge their duties on the technical side of the police branch and they do not have many of the powers vested with the normal Sub-Inspectors of Police. For instance, they do not have the power of registering the First Information Report and they will have to remain on the technical side till their retirement, unlike in other units, where there is a possibility of interchangeability.

1.4 When the petitioner and others were recruited in 2001, the seniority of the personnel recruited so, was not fixed for some time and the inter se seniority amongst themselves was finally fixed only on 13.02.2007. Thereafter, the petitioner came to know that the seniority was fixed on the basis of the marks obtained by the Sub-Inspectors (Technical) in terms of Rule 10(a) of the ad hoc rules which reads thus:

"10 Training:

(a) Every person appointed to the post of Sub-Inspector (Technical) shall undergo a training for a period of three months in the Police Training College. The training programme shall include the following:

INDOOR--

(i) Organisational structure of Police Force and badges of rank.

(ii) Rudiments of Law, Indian Penal Code, 1860 (Central Act XLV of 1860); Criminal Procedure Code 1973 (Central Act 2 of 1974), Indian Evidence Act, 1872 (Central Act I of 1872) and Minor Acts.

(iii) Tamil Nadu Subordinate Police Officers Conduct Rules, 1964.

(iv) Introduction of computer MIS and computer-based message transmission system.

(v) Study of wireless communication.

OUTDOOR:

(i) Physical training exercise, Yoga,

Meditation.

(ii) Drill without arms, Sections 17 to 61 of Drill and Training Manual of Tamil Nadu Police.

(iii) Games and athletics

On completion of training, a suitable test shall be conducted and the minimum marks for a pass shall be 40%”

1.5 The petitioner's grievance is that when he was recruited on the technical side, the official respondents ought to have taken into consideration the marks obtained by him after the completion of the technical training as provided for in Rule 10(b) of the ad hoc rules which reads thus:

“10(b) Every person appointed to the post of Sub-Inspector (Technical) shall also undergo three months Institutional Training at Police Telecommunication Branch, Technical Training School. They shall be trained in--

(i) Functioning of Telecommunication equipments used in Police Organisation, viz., very High Frequency Micro wave, Time, Divisional Multi Access, Ultra High Frequency and computer based message Transmission System.

(ii) Operation of High Frequency link.

(iii) Erection, installation and commissioning of various telecommunication equipments.

(iv) Maintenance of equipments of various types and other gadgets, viz., very high frequency, Microwave Time Divisional Multi Access, Exchange and Message Transmission System.

(v) Installation and commissioning of Repeater Stations Central Rooms and Workshops.

(vi) Store and Workshop Management

(viii) Research and Development: A suitable test shall be conducted by the Deputy Inspector General of Police (Technical Service) duly assisted by the Director, Police Telecommunication Branch at the end of the training and the minimum marks for a pass in the test shall be 50%.”

1.6 According to the petitioner, if the police administration had taken into consideration, the marks obtained by the Sub-Inspectors (Technical) in the technical subjects and the training, his seniority and also the seniority of other similarly placed persons would be different as they would have been ranked much higher in the seniority list, since their performance in the technical training and their proficiency in the technical subject was far higher in terms of their performance, than the persons who had been ranked higher than him and other similarly placed persons, solely on the basis of their performance in the general training as provided for in Rule 10(a) of the ad hoc rules extracted supra.

1.7 In the above circumstances, the petitioner and the similarly placed persons have represented to the respondents 1 to 3 herein for assignment of seniority on the basis of their performance in the technical subjects, periodically. However, ultimately, in consideration of their representations, the second respondent issued a communication dated 10.03.2010 rejecting the request of the petitioner and other similarly placed persons. The reasons set forth in the rejection order was that the seniority of the Sub-Inspectors (Technical) was fixed on the basis of marks obtained by them in the final examination conducted by the Police Training College (for brevity "the PTC"). The petitioner herein, aggrieved by such rejection, has approached this Court challenging the seniority list dated 13.02.2007 and the rejection order dated 10.03.2010.

2 Upon notice, the official respondents have filed a detailed counter affidavit.

3 During the pendency of this writ petition, several persons who are likely to be affected by the outcome of this writ petition, came to be impleaded as respondents 5 to 40. While some of the private respondents opposed to the grant of relief to the petitioner, some of the private respondents are also similarly placed like the petitioner herein.

4 A counter affidavit was also filed by the respondents 12 to 18 herein.

5 As for the official respondents, their submission was that the ad hoc rules clearly stipulate the applicability of Special Rules in respect of the Tamil Nadu Police Subordinate Service and as per Rule 25(a) of the Special Rules, the seniority has to be fixed on the basis of marks obtained in the final examination in the PTC. Rule 25(a) of the Special Rules, along with the provisos, reads as under:

"25. Seniority-(a): The seniority of a person in any class or category of the service shall, unless he has been reduced to a lower rank as a punishment be

determined by the rank obtained by him in the list of approved candidates drawn up by the appointing authority, subject to the rule of reservation where it applies. The date of commencement of his probation shall be the date on which he joins duty irrespective of his seniority unless he has been appointed temporarily under sub-rule (d) of rule 10 or sub-rule (b) of rule 15, as the case may be:

Provided that in the case of Sub-Inspectors (recruited direct) (category 2 of class I), the seniority shall be fixed on the basis of the marks obtained by them in the final examination in the Police Training College, Vellore.

Provided further that in respect of direct recruitment made in the years 1976 and 1979 to the posts of Sub-Inspectors of Police, Reserve Inspectors of Police by the Tamil Nadu Public Service Commission, the seniority shall be fixed with reference to the rank assigned by the Tamil Nadu Public Service Commission in the list of selected candidates communicated by it. [G.O. Ms.No.767, Home (Pol.III), dated the 28th March 1985].

Provided also that all directly recruited Assistant Sub-Inspectors selected for direct recruitment as Sub-Inspectors shall be placed as a block above the fresh direct recruits but inter se again they shall retain their original seniority in the list of Assistant Sub-Inspectors. [G.O. Ms.No.2168, Home, dated the 17th August 1972].

Provided also that in the case of Reserve Sub-Inspectors (category 4 of class I), the seniority shall be fixed on the completion of training with the Special Armed Police instead of at the time of selection but such seniority shall be liable to revision by the Deputy Inspector-General of Police concerned, if he considered it necessary, before the completion of probation. [G.O. Ms. No.1883, Home, dated the 5th August 1987].

Provided also that the required number

of Head Constables fit for promotion to the post of Sub-Inspector shall be included in the order of merit on the basis of the result of the examination specified in clause (ii) of sub-rule (e) of rule 18 and re-arranged in the order of seniority in the post of Head Constable.

This sub-rule shall apply to any member of the service other than Sub-Inspectors appointed on or after 1st January 1962. It shall also apply to Sub-Inspectors appointed on or 25.08.1965."

6 According to the official respondents, since the preamble to the ad hoc rules clearly stipulate that the Special Rules of the Tamil Nadu Police Subordinate Service would be applicable subject to the modification contained in the ad hoc rules and in the absence of provisions in the ad hoc rules as to the manner in which seniority had to be fixed inter se amongst the directly recruited Sub-Inspectors (Technical), seniority was fixed on the basis of the Special Rules and therefore, the petitioner cannot have any grievance which can be legitimately addressed.

7 As for the private respondents who are opposed to the grant to relief to the petitioner, Mr. M. Ravi, learned counsel appearing for them, would contest the case of the petitioner on the ground that the examination conducted in the PTC alone is required to be taken for consideration for the purpose of fixation of inter se seniority. He would point out the fact that technical training as per the ad hoc rules was imparted in the Police Telecommunication Branch, Technical Training School, which cannot be taken to be the basis for grant of inter se seniority, as that would mean that the administration would be violating the Special Rules framed in this regard as provided for under provisos to Rule 25 of the Special Rules. Mr. M. Ravi would also strenuously contend that the seniority had been fixed way back in 2007 and the same having become final, on the basis of which, further promotion had been effected, at the instance of one person, settled seniority cannot be allowed to be unsettled at this distance of time. He would particularly oppose the impleaded respondents similarly placed like the petitioner herein, who did not choose to challenge the seniority list which was issued long ago in 2007, but, have chosen to get themselves impleaded recently in the writ petition filed by the petitioner herein. Therefore, he would contend that the newly impleaded respondents who are similarly placed like the petitioner herein cannot be granted any relief as their case was hopelessly time-barred and hit by severe laches, in any event.

8 Mr. M. Radhakrishnan, learned counsel for the petitioner would submit that the issue which emerges for the consideration of this Court lies in a very narrow compass, i.e., whether the final examination is to be construed as one held in the PTC or the training undergone by the petitioner on the technical side in the Telecommunication Branch, Technical Training School.

9 According to the learned counsel for the petitioner, the post of Sub-Inspector (Technical) is purely technical in nature and that due emphasis must have been laid on learning technical subjects and not the general subjects, particularly, in view of the fact that these police personnel were required to discharge their technical duties on the basis of their expertise in the subject and not on the basis of general knowledge. Therefore, he would submit that the expression "final examination" must be construed to mean technical expertise acquired by the petitioner thanks to his long years of service and the technical training as provided for under Rule 10(b) of the ad hoc rules. Otherwise, it does not stand to reason or logic that the technical personnel were recruited on the basis of technical knowledge, but, assigned seniority on the basis of their general knowledge. Such a situation, according to the learned counsel, cannot be countenanced, both in law and on facts.

10 Mr. K. Venkataramani, learned Senior Counsel appearing for respondents 19 to 27, who are similarly placed like the petitioner herein, would submit that Rule 25(a) of the Special Rules is not applicable to the case at hand, inasmuch as the same is not included in Rule 9 of the ad hoc rules, where, it is clearly specified as the applicability of certain rules. The said Rule 9 of the ad hoc rules reads thus:

"9. Application of other rules: The Tamil Nadu Police Subordinate Services (Discipline and Appeal) Rules, Tamil Nadu Travelling Allowance Rules and the Tamil Nadu Subordinate Police Officers Conduct Rules, 1964 shall apply to the holders of the posts."

Therefore, he would submit that in the absence of inclusion of the Special Rules in Rule 9 of the ad hoc rules, the preparation of seniority list on the basis of Rule 25(a) of the Special Rules is invalid and contrary to the ad hoc rules and therefore, the impugned seniority list is liable to be interfered with.

11 Both Mr. M. Radhakrishnan and Mr. K. Venkataramani, would submit that the post of Sub-Inspector (Technical) has completely different duties not connected with the duties attached to the post of Sub-Inspector of Police of the regular police force and that being the case, the general training undergone by them initially before the technical training as undergone by the normal police personnel like Sub-Inspectors of

Police, cannot be the basis for assignment of seniority and such approach by the Department does not subserve the interest of the technical personnel as the knowledge of the technical personnel in technical subjects cannot be pushed to the back burner.

12 Mr. M. Ravi, learned counsel for respondents 4 and 28 to 38 who are opposed to the grant of relief to the petitioner, has relied upon the following decisions:

i Paragraph no.5 of the judgment of the Supreme Court in Prem Kumar Verma and another vs. Union of India and others [(1998) 5 SCC 457] which reads as under:

"5. In view of our conclusion that the posts fell vacant prior to July 1989 and the process of selection was completed and the Recruitment Board selected the candidates on 11-7-1989 the amendment that was introduced on 5-5-1990 and the further amendment of 1993 will have no application and it is the unamended Rule 303(a), as it stood on 11-7-1989, that would govern the case of inter se seniority. The analysis of the provisions of para 303 indicates that where candidates are required to undergo some training after being selected through Railway Service Commission or any other recruiting authority, their seniority is determined on the basis of their respective merit in the examination held at the end of the training period and where candidates do not have to undergo any training, the seniority is determined on the basis of the merit assigned by the Railway Service Commission or other recruiting authority. In the present case the candidates had to undergo training and in fact they had undergone training in batches, as already stated. In that view of the matter their seniority had rightly been determined by the Railway authority on the basis of their respective merit obtained in the examination held at the end of the training period. The Tribunal committed error by altering the said seniority on the basis of a rule which was not in existence on the date the vacancy arose and on the date when the selection was completed."

ii Paragraph nos.34 to 36 of the judgment of the Supreme Court in Food Corporation of India and others vs. Om Prakash Sharma and others [(1998) 7 SCC 676] which read as under:

"34. In the view we have expressed above, it is unnecessary for us to consider the alternative contentions put forward by the non-graduates with reference to the retrospective operation of the Rule and the non-applicability of the Rule to non-graduates holding the posts of AG III. We would, however, for the sake of completion set out the list of decisions

cited by learned counsel in support of the contention that the amendments are invalid insofar as they seek to have retrospective effect:

1. T.R. Kapur v. State of Haryana [1986 Supp SCC 584 : (1987) 2 ATC 595] .

2. P.D. Aggarwal v. State of U.P. [(1987) 3 SCC 622 : 1987 SCC (L&S) 310 : (1987) 4 ATC 272]

3. K. Narayanan v. State of Karnataka [1994 Supp (1) SCC 44 : 1994 SCC (L&S) 392 : (1994) 26 ATC 724].

4. Union of India v. Tushar Ranjan Mohanty [(1994) 5 SCC 450 : 1994 SCC (L&S) 1118 : (1994) 27 ATC 892].

5. Chairman, Rly. Board v. C.R. Rangadhamaiah [(1997) 6 SCC 623 : 1997 SCC (L&S) 1527] .

35. The last of the above cases has been decided by the Constitution Bench in which one of us (Justice Agrawal), was a Member and he spoke for the Bench. It will be advantageous to quote the following passage in that judgment: (SCC p. 638, para 24)

"24. In many of these decisions the expressions 'vested rights' or 'accrued rights' have been used while striking down the impugned provisions which had been given retrospective operation so as to have an adverse effect in the matter of promotion, seniority, substantive appointment, etc., of the employees. The said expressions have been used in the context of a right flowing under the relevant rule which was sought to be altered with effect from an anterior date and thereby taking away the benefits available under the rule in force at that time. It has been held that such an amendment having retrospective operation which has the effect of taking away a benefit already available to the employee under the existing rule is arbitrary, discriminatory and violative of the rights guaranteed under Articles 14 and 16 of the Constitution."

36. If the principle laid down in the above judgment is applied here, there is no doubt that the

impugned amendments in the present case cannot operate retrospectively."

iii Paragraph nos.28-31 of the judgment of the Supreme Court in Amarjeet Singh and others vs. Devi Ratan and others [(2010) 1 SCC 417] which read as under:

"28. In the instant case, promotions had been made by two different DPCs held on 19-12-1998 and 22-1-1999. Both DPCs had made promotions under different Rules on different criterion and their promotions had been made with retrospective effect with different dates notionally. In the writ petition before the High Court, the promotion of the appellants had not been under challenge. The seniority which is consequential to the promotions could not be challenged without challenging the promotions. Challenging the consequential order without challenging the basic order is not permissible. (Vide P. Chitharanja Menon v. A. Balakrishnan [(1977) 3 SCC 255 : 1977 SCC (L&S) 378 : AIR 1977 SC 1720] .)

29. In Roshan Lal v. International Airport Authority of India [1980 Supp SCC 449 : 1981 SCC (L&S) 303 : AIR 1981 SC 597] the petitions were primarily confined to the seniority list and this Court held that challenge to appointment orders could not be entertained because of inordinate delay and in absence of the same, validity of consequential seniority could not be examined. In such a case, a party is under a legal obligation to challenge the basic order and if and only if the same is found to be wrong, consequential orders may be examined.

30. In H.V. Pardasani v. Union of India [(1985) 2 SCC 468 : 1985 SCC (L&S) 482 : AIR 1985 SC 781] this Court observed that: (SCC p. 473, para 9)

"9. ... If the petitioners are not able to establish that the determination of their seniority is wrong and they have been prejudiced by such adverse determination, their ultimate claim to promotion would, indeed, not succeed."

A similar view had been reiterated by this Court in Govt. of Maharashtra v. Deokar's Distillery [(2003) 5 SCC 669].

31. These appeals are squarely covered by the aforesaid judgments. We are of the considered opinion that in absence of challenge to the promotion of the appellants, relief of quashing the consequential

seniority list could not have been granted.”

iv judgment of a Division Bench of this Court in V. Malathi and others vs. M. Jayaprakash Rao and others [(2016) 8 MLJ 163].

13 The judgment in V. Malathi (supra) was in regard to the contention that disturbing the seniority list after a delay of several years was found to be unnecessary and unwarranted. As for the other decisions of the Supreme Court relied upon by Mr. Ravi, it is beyond the ken of this Court as to how the same can be applied to the factual matrix of the case at hand, for the reason that the issue of seniority hinges on the sole fact as to whether the action of the official respondents was valid and correct while fixing the seniority of the technical personnel recruited in the Police Department on the basis of their training in the general subjects alone in the PTC or should it be construed that their knowledge in the technical training imparted should also be taken into consideration for the purpose of assignment of seniority.

14 In regard to the objection raised by Mr. Ravi, learned counsel for respondents 4 and 28 to 38 that the writ petition has to be dismissed as not maintainable due to laches, the same has to be rejected outright as being devoid of merits, for the reason that, concededly, the seniority list was prepared only in 2007 and thereafter, repeated representations were made for correction of seniority list and the administration has passed the order only on 10.03.2010. Immediately thereafter, the petitioner had approached this Court challenging the seniority list dated 13.02.2007 and the rejection order dated 10.03.2010. Therefore, the contention, in the teeth of the above fact, does not merit any serious consideration by this Court. As regards the objection raised by the learned counsel that some of the private respondents who are similarly placed like the petitioner approached this Court by filing impleading applications belatedly is also liable to be rejected, in view of the basic fact that the petitioner has approached this Court at the appropriate time and any decision to be rendered in the writ petition has to be applied to all the similarly placed persons. That being the case, this Court cannot make any distinction between the petitioner and other similarly placed party respondents in regard to the plea of laches.

15 Although the issue is seemingly simple and plain calling for a purposive interpretation, it is to be borne in mind that the consequence of any interpretation has a far-reaching implication on the service conditions of hundreds of Sub-Inspectors (Technical) recruited over the years after the advent of ad hoc rules in 1999. The argument advanced by

Mr.K.Venkataramani, learned Senior Counsel that the Special Rules cannot be made applicable to the present case in view of its non-inclusion in Rule 9 of the ad hoc rules does not cut much ice with this Court in the teeth of the fact that in the preamble to the ad hoc rules, there is a categorical mention that the Special Rules should be applicable subject to modification of the ad hoc rules. Therefore, this Court cannot completely wish away the existence of the Special Rules, particularly, the provisos to Section 25(a) of the Special Rules applicable to the Tamil Nadu Police Subordinate Service.

16 However, holding as such, this Court has to take into consideration the object underlying the recruitment of Sub-Inspectors (Technical) for carrying out technical duties of the Police Department. From the ad hoc rules, it is manifest that a clear and due emphasis was placed on the technical knowledge of the personnel to be recruited as Sub-Inspectors (Technical). As per Rule 10(b) of the ad hoc rules, an elaborate training has been provided on the technical side for the purpose of handling their job, as compared to the general learning provided for under Rule 10(a) of the ad hoc rules, as rightly contended by the learned counsel appearing for the petitioner and also the learned counsel appearing for the respondents similar to that of the petitioner that the posts of Sub-Inspector (Technical) are not interchangeable and they have to remain as such on the technical side till their retirement and they are not vested with the normal power of even registration of a First Information Report as vested with the normal police personnel in the Police Department. Such being the case, it is rather preposterous that the administration has given undue weightage only to the proficiency of the petitioner and similarly placed others in general knowledge, completely wishing away their proficiency in the technical subjects/training. As such, the understanding of the situation by the Police administration has no nexus to the object the Department is seeking to achieve by recruiting police personnel on the technical side.

17 As regards the application of Rule 25(a) of the Special Rules, it is needless to mention that the said rule was framed much before the advent of recruitment of technical personnel in the Police Department and therefore, the said rule could not have possibly contemplated and envisaged assignment of seniority of the personnel recruited in the technical branch. Hence, pressing the said rule into service for the purpose of assignment of seniority to the technical personnel does not advance the cause of technical administration of the Police Department. Undue emphasis has been given to the expression "Police Training College" and that is being considered as final examination which alone remained as the sole yardstick for grant of inter se seniority amongst the technical recruits. In fact, in Rule 25(a) of the Special Rules, the place of the PTC is

mentioned. If that is taken to be the consideration literally, persons who got trained in other centres of the PTC cannot have their seniority fixed on the basis of their training in the PTC. Therefore, it is incumbent upon the authority to have a purposive interpretation of the Special Rules and the same have to be harmoniously read with the cardinal principle and the object underlying the ad hoc rules while recruiting the technical personnel and granting them inter se seniority. Such harmonious construction is required in order to promote the object for which the technical personnel are recruited as due primacy has to be accorded for their knowledge in technical subjects and not for their knowledge in general subjects.

18 The preparation of seniority list by the Police Department on the basis of the training imparted as provided for under Rule 10(a) of the ad hoc rules can also be faulted for a Constitutional reason as the administration was attempting to treat the unequals as equals, which attempt is clearly violative of the principle laid down under Article 14 of the Constitution of India. The post of Sub-Inspector (Technical), to say the least, stands completely on a different footing when compared to the Sub-Inspectors of Police in terms of their recruitment method, qualification, functions, discharge of duties, etc. and therefore, the application of Rule 25(a) of the Special Rules which is applicable to the normal Sub-Inspectors of Police cannot be ipso facto applied in the case of technical personnel as that would only mean that the rule has been applied rather rigidly with little application of mind.

19 In fact, this Court was informed during the course of arguments that the Government itself had recognised the anomaly in assignment of seniority on the basis of general knowledge alone and provided a higher weightage to the technical subject subsequently. Thus, the petitioner's claim is far more strengthened by the subsequent development and the technical personnel, having attained their merit on the technical subjects, cannot be placed at a disadvantageous position having been pushed below the seniority list than the personnel who had lesser merits on the technical side. Such a position is glaringly anomalous and invalid and the same needs to be discountenanced outright.

20 In the light of the above narrative and discussion, this Court is of the considered view that the assignment of seniority on the basis of marks obtained in the training as provided for under Rule 10(a) of the ad hoc rules alone cannot stand the test of judicial scrutiny and the same does not, in any way, advance the object sought to be achieved through ad hoc rules. The interpretation of the rules must be purposive and must have rational meaning while the same is implemented. In the instant case, the application of Rule 25(a) of the Special

Rules is not only unreasonable and arbitrary, but, the same is irrational too, which cannot be accepted to be a tenable administrative exercise.

21 For all the aforementioned reasons, the impugned seniority list dated 13.02.2007 prepared by the third respondent and also the rejection order dated 10.03.2010 passed by the second respondent are quashed. The respondents 1 to 3 are directed to re-cast the petitioner's seniority and the similarly placed persons on the basis of the marks obtained by the Sub-Inspectors (Technical) in the technical training as provided for under Rule 10(b) of the ad hoc rules by harmonious reading of Rule 25(a) of the Special Rules with the ad hoc rules on the basis of underlying principle of purposive interpretation in the larger interest of the Police Department. Such exercise shall be completed by the Department within a period of ten weeks from the date of receipt of a copy of this order.

With the above direction and observation, this writ petition stands allowed. Costs made easy. Connected M.P. No.1 of 2013 is closed.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

To

1 The Principal Secretary to Government
Home Department
Government of Tamil Nadu
Secretariat
Chennai 600 009

2 The Director General of Police
Chennai 600 004

3 The Deputy Inspector General of Police
Technical Services
Chennai 600 004

+ 1 cc to Mr. M.V. Venkataseshan Advocate, SR.4137

+ 5 cc to Mr. R.Abdur Rahman, Advocate, SR.4149

+ 1 cc to M/s.Row & Reddy Advocate, SR.4489

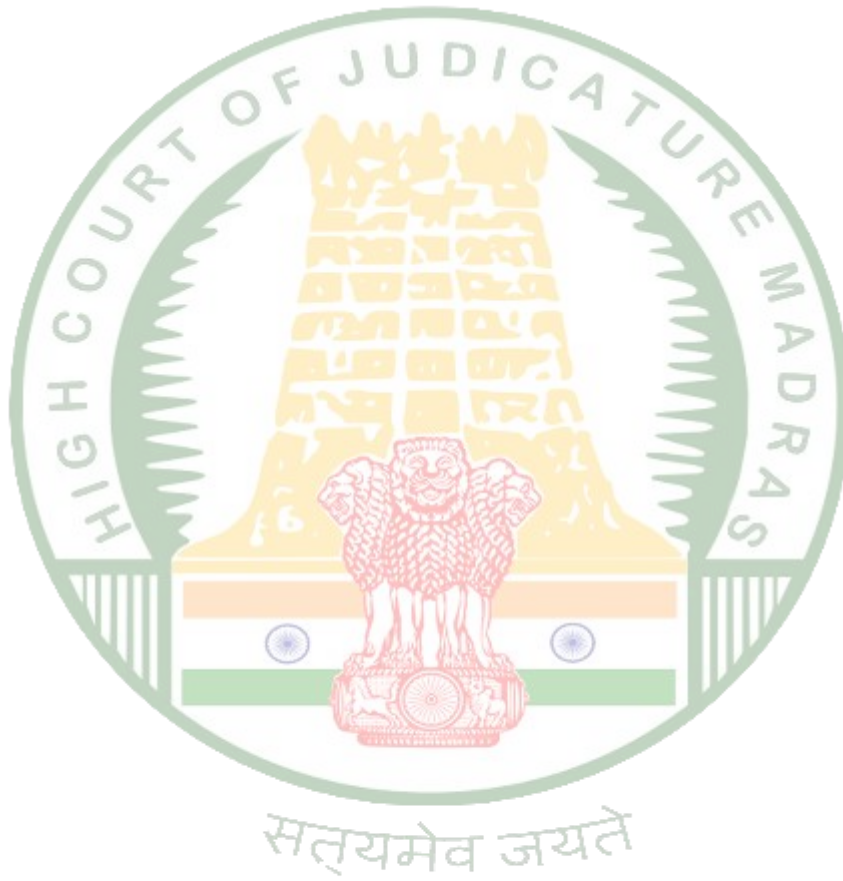
+ 1 cc to Mr. Mr. K. Thilageswaran Advocate, SR.4210

+ 1 cc to Mr. Mr.M.Ravi, Advocate,SR.4541

+1cc to Government Pleader in sr.no.4075

W.P. No.7146 of 2010

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