

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 18.07.2019

Delivered on :03.10.2019

Coram

The Hon'ble Mr.Justice V.PARTHIBAN

W.P.No.13503 of 2018 & 15549 of 2018
and
W.M.P.Nos.15900, 15901 & 18449 of 2018

P.Kumareswaran,
Executive Engineer,
Tamil Nadu Police Housing Corporation Ltd.,
Salem Division, Annadhanapatty,
Salem District - 636 002.

...Petitioner
in W.P.No.13503 of 2018

The Chairman & Managing Director,
Tamil Nadu Police Housing Corporation Ltd.,
132, EVR Salai, Kilpauk,
Chennai - 600 010.

...Petitioner in
W.P.No.15549 of 2018

Vs.

- 1.The State of Tamil Nadu,
rep by its Principal Secretary,
Department of Home (Police X),
Fort St.George, Chennai - 600 009.
- 2.The Secretary to Government of Tamil Nadu,
Department of Personnel & Admin Reforms,
Fort St.George, Chennai - 600 009.
- 3.The Chairman & Managing Director,
Tamil Nadu Police Housing Corporation Ltd.,
132, EVR Salai, Kilpauk, Chennai - 600 010.
- 4.A.Ravihandar,
Executive Engineer,
Chennai Division II,
Tamil Nadu Police Housing Corporation Ltd.,
Chennai.

...Respondents in
W.P.No.13503 of 2018

- 1.Vice Chairman,
National Commission for Schedule Castes,
5th Floor, Loknayak Bhavan,
Khan Market, New Delhi - 110 003.
- 2.National Commission for Schedule Castes,
State Office, Shastri Bhavan,
Floor 2 (Block 5), Chennai - 06.
- 3.Mr.P.Kumareshwaran,
Executive Engineer,
Tamil Nadu Police Housing Corporation Ltd.,
Salem Division, S-Block,
No.3 & 4, (SI Quarters) New PGR Line,
Line Medu, Salem - 636 006.

...Respondents in
W.P.No.15549 of 2018

Prayer in W.P.No.15549 of 2018: Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus calling for the records relating to the impugned proceedings of the first respondent in Letter No.70407/Police X/2016-4, dated 11.01.2017, quash the same and further direct the third respondent to promote the petitioner as Superintending Engineer in the existing vacancy as per the resolution passed by it in its 163rd Board Meeting dated 01.12.2016.

Prayer in W.P.No.15549 of 2018: Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorari calling for the records of the first respondent in Lr.No.P-6/Tamil Nadu - 8/2017/SSW-1 dated 23.03.2018 and quash the same.

For Petitioner (in W.P.13503/18)	..	Mr.Issac Mohanlal, SC for Issac Chambers
WP.15949/18	..	Mr.P.H.Arvind Pandia, AAG assisted by Mr.V.Kathirvelu Spl.GP
For Respondents (in W.P.13503/18)	..	Mr.P.H.Arvind Pandia, AAG assisted by Mr.V.Kadhirvelu, Spl.GP (for R1 to R3) Mr.M.Velumurugan (for R.4)
For respondents (in W.P.15549/18)	..	Mr.Issac Mohanlal, SC for Issac Chambers (for R.3) No appearance for R.1 & R.2

COMMON ORDER

Since both the Writ Petitions are interlinked pertaining to the similar facts, they are taken up together and being disposed vide this common order.

2. The brief facts which gave rise to the filing of the writ petition in W.P.No.13503 of 2018 are stated hereunder:

3. The petitioner was initially appointed as Assistant Engineer in the third respondent Corporation w.e.f. 03.07.1995. According to the petitioner, he was appointed through Direct Recruitment. He belongs to S.C. Community. After a period of six years of service as Assistant Engineer, he was promoted to the post of Assistant Executive Engineer on 13.08.2001. He was further promoted as Executive Engineer on 05.05.2005 initially as In-charge and was regularly promoted on 14.10.2008. The next avenue of promotion to the post of Executive Engineer is the post of Superintending Engineer. According to the Recruitment Rules, the qualifying service was prescribed as eight years of service as Executive Engineer for consideration to the post of Superintending Engineer.

4. There were three posts of Superintending Engineer available in the third respondent Corporation. Out of three posts, one post fell vacant in April, 2013 and considering the seniority of the petitioner, he was posted as Superintending Engineer w.e.f. 17.04.2013 at South Circle, Madurai. Thereafter, he was transferred to North Circle, Salem on 15.05.2016 and worked as Superintending Engineer up to 18.01.2018. According to the petitioner, his entire service is without any blemish. Since, the petitioner was fully eligible to be promoted as Superintending Engineer on regular basis as he put in more than 9 years of qualifying service, he requested the third respondent Corporation to promote him as Regular Superintending Engineer. The third respondent Corporation in its 163rd Board Meeting, resolved to promote the petitioner as Superintending Engineer in the existing vacancy vide its resolution dated 08.12.2016. The said resolution was also sent to the first respondent/Government for approval. According to the petitioner, upto level of posting as Superintending Engineer, no approval is required from the Government. However, the third respondent had sent for approval of the Government of its resolution dated 08.12.2016.

5. When the approval was pending before the first respondent, it appears that a clarification was sought by the first respondent with the third respondent about the seniority position of petitioner vis-a-vis the fourth respondent who was

appointed along with the petitioner originally in 1995 as Assistant Engineer. After exchange of correspondence between the third respondent and the second respondent and also the first respondent Government, finally an order was issued vide communication dated 11.01.2017 revising the seniority of the petitioner and the fourth respondent, wherein, fourth respondent was placed above the petitioner in the cadre of Assistant Engineer and therefore, a direction was issued to grant the promotion on the basis of the revised seniority list to the post of Superintending Engineer. Originally, when the appointments were made in regard to Assistant Engineer in 1995, the fourth respondent was shown as senior to the petitioner but however, on the basis of the representation made by the petitioner herein that, he being a candidate from Scheduled Caste Community, ought to have been accommodated against the backlog vacancy earmarked for S.C. candidates, while the appointments made to the post of Assistant Engineer, his seniority came to be revised and the petitioner was placed above the fourth respondent vide a proceedings of the third respondent dated 17.04.2013. Therefore, the petitioner was surprised that his seniority which was fixed rightly in 2013 was revised in 2017 without any notice to him at the instance of the fourth respondent who has not chosen to challenge the seniority assigned to the petitioner as early as in 2013, but has chosen to represent to the respondent when the petitioner's name came up for consideration for appointment to the post of Superintending Engineer on regular basis.

6. According to the petitioner, his claim for seniority over the fourth respondent arises for reasons as under:

7. The feeder post for appointment to the post of Assistant Engineer is Junior Engineer. According to the petitioner, the Rule of Reservation was followed by Corporation and in 1985, the Corporation was in need of 2 Junior Engineers and 8 Building Inspectors. As far as two Engineer posts were concerned, two candidates sponsored by the Employment Exchange were selected. One person under O.C. Category and another person under S.C. Category and the third person belonging to B.C. Category was placed in the waiting list. As the person selected under O.C. Category did not join, the person who was kept in the waiting list belonging to B.C. Category joined and occupied the post earmarked for O.C. candidate. One Tr.M.Kumar, belonging to S.C. Category, was appointed in the S.C. vacancy.

8. Thereafter, the vacancies arose in the post of Assistant Engineer in 1992 and promotion was being considered from the existing Junior Engineers whereas the person who was appointed against the S.C. category, Mr. Thennarasu did not possess

B.E.Degree qualification which was the essential qualification for consideration of promotion to the post of Assistant Engineer. Therefore, Mr.Kumar originally was appointed under S.C. Category to the post of Junior Engineer, was promoted as Assistant Engineer under O.C. Category and one vacancy earmarked for S.C. Category for the post of Assistant Engineer was carried forward. When vacancies arose in 1993 in view of non-availability of S.C. candidates, two persons were promoted from the post of Building Inspector by following communal reservation and appointed one Mr.S.Jeyakumar (O.C.Category) and one Mr.Senthil Kumar (M.B.C. Category) and promoted them as Assistant Engineers. Therefore, the backlog vacancies remained unfilled.

9. According to the petitioner, that as per Tamil Nadu State and Sub-ordinate Service Rules particularly Rule 22(d), in the absence of candidates belonging to S.C./S.T. Communities, for appointment by recruitment by transfer shall not lapse the unfilled vacancies reserved are to be carried forward for four consecutive years.

10. While so, in 1995, there were three posts fallen vacant for the the post of Assistant Engineer and according to the petitioner, for the first time, Government resorted to fill up the post of Assistant Engineer through direct recruitment by following Rule of Reservation. The Corporation sought the list of eligible candidates from the Employment Exchange and on the basis of sponsored list, three candidates were selected including the petitioner herein for the post of Assistant Engineer. The petitioner was adjusted against the backlog vacancy of S.C. category and one, A.Ravichander, who is the fourth respondent herein was adjusted against O.C. category vacancy and one S.V.Sekar was adjusted against B.C. category vacancy. However, seniority was not fixed on the basis of the Rule of Reservation. But subsequently on the representation of the petitioner, it was revised in 2013 by placing petitioner above fourth respondent.

11. Since, the petitioner was wrongly assigned seniority below the fourth respondent by not following the Rule of Reservation, repeated representations were made by him and thereafter, the second respondent vide proceedings dated 15.04.2013 accepted the plea of the petitioner and directed the third respondent to revise the seniority list by placing the petitioner above the fourth respondent which in turn was accepted by the third respondent and issued Communication dated 17.04.2013 thereby fixing the seniority of the petitioner above fourth respondent in the category of Assistant Engineer.

12. At this, the fourth respondent appears to have submitted a representation to the third respondent. But however, the same was turned down in 2013 itself and the fourth respondent did not chose to address his grievance thereafter and remained quite without any protest thereafter. Even, when the petitioner was promoted as Superintending Engineer (In-charge) ahead of the fourth respondent, presumably on the basis of his grant of higher seniority, there was no protest by the fourth respondent and the petitioner had acted as Superintending Engineer In-charge for 5 years till 2018.

13. While matters stood thus, when the regular appointment was being considered for promotion to the post of Superintending Engineer, it appears that the fourth respondent addressed a representation objecting his seniority granted below the petitioner and that is how the entire issue was re-opened which led to the passing of the impugned order dated 11.01.2017 by the first respondent revising the seniority of the petitioner vis-a-vis the fourth respondent by placing the petitioner below the fourth respondent in the category of the Assistant Engineer and also consequential reversion of the petitioner from the post of Superintending Engineer (In-charge) to the post of Executive Engineer. In the said circumstances, the petitioner is before this Court, challenging the impugned order dated 11.01.2017 of the first respondent.

14. Shri Issac Mohanlal, learned Senior counsel appearing for the petitioner would strongly contend that the Rule of Reservation has been given complete go by by the official respondents that the backlog vacancy belonging to the Schedule Caste Category was carried forward from 1992-93 when the posts were filled up in 1995 in the cadre of Assistant Engineer. As factually explained above, after Mr.Kumar, who belongs to S.C. Category was accommodated as Assistant Engineer against O.C. Category in the absence of any O.C. qualified candidate, thereby there existed a clear vacancy belonging to S.C. Category which vacancy could not be filled up in the next recruitment year 1993 due to absence of qualified candidates. Therefore, when the Corporation has resorted to fill up all posts of Assistant Engineer in the year 1995, being the subsequent recruitment year, the first vacancy ought to have been rotated with the candidate from the S.C. Community and that was appreciated by the second respondent, who was the competent Authority to take a call in the matter and therefore, the claim of the petitioner was rightly appreciated and his seniority was fixed above the fourth respondent in 2013 and on the basis of such fixation, the petitioner was also granted temporary promotion as

Superintending Engineer (In-charge) and was allowed to act as such for 5 years.

15. According to the learned Senior counsel, when the right has been accrued to the petitioner by granting a proper and correct fixation of seniority vis-a-vis the fourth respondent, that right cannot be taken away after lapse of considerable time, particularly, without any notice to him. Therefore, on this ground alone, the impugned revision of seniority ordered by the first respondent is liable to be interfered with. Moreover, the learned Senior counsel also would submit that the Rule of Reservation clearly envisages that in the absence of candidates belonging to SC/ST Community, in particular recruitment year, the same shall be carried forward in the subsequent recruitment years for four times and if such candidate is available in the subsequent recruitment year, first vacancy shall go to the reserved category. This Rule of Reservation has to be followed while effecting promotions in public service and therefore, in appreciation of the rule position, the petitioner's seniority came to be rightly revised in 2013. Unfortunately, the first respondent after settling the seniority in favour of the petitioner, has issued proceedings dated 11.01.2017 unsettling the settled seniority without due appreciation of the facts and the rule position. Therefore, the learned Senior Counsel would submit that in such view of the matter, the petitioner is entitled to be promoted as Superintending Engineer on regular basis on the basis of the original seniority granted to him in 2013 and the impugned order passed by the first respondent, cannot be either countenanced on law or on facts.

16. The learned Senior counsel would also draw the attention of this Court to the Rule position in this regard. Rule 22(d) Proviso attached to the Sub-clause, of the Tamil Nadu State Subordinate Service Rules and also Rule 35 of the same Rules in regard to fixation of seniority of member of the class of service. This Court makes it clear that the Rule of Reservation as contended by the learned Senior counsel is not to be doubted and it is very clear that any carry forward vacancy has to be filled up by the eligible available candidates belonging to the reserved category in the first slot. There cannot be any controversy with this position. Nevertheless, this Court has to see whether the recruitment exercise which was undertaken in the year 1995 by the third respondent/Corporation was in effect filling up of all the backlog vacancies or it was only a direct Recruitment not concerned with the filling up of vacancies carried forward from the years 1992-93.

17. Per contra, the learned Additional Advocate General

appearing on behalf of the Official respondents would submit that the entire claim of the petitioner is misconceived for the simple reason that, it is an admitted fact even by the petitioner himself that the third respondent Corporation, for the first time, has resorted to Direct Recruitment for filling up of the post of Assistant Engineer in 1995. When for the first time, direct recruitment was resorted to, the first vacancy shall always go to O.C. candidate as per Rule of Reservation (200 Point Roster system) and in this case, the fourth respondent who was belonging to O.C. Category was adjusted in the first vacancy and the petitioner who belongs to S.C. Category was adjusted in the second vacancy. On the basis of the above adjustment, the seniority was revised by the Government after appreciating all the facts in proper perspective. According to the learned Additional Advocate General, the order passed by the first respondent which is impugned in the writ petition dated 11.01.2017 is self explanatory and clarifies the Rule position.

18. On behalf of the Official respondents, an elaborate counter affidavit has been filed and the learned Additional Advocate General has reiterated the averments by laying great emphasis on the factual aspect of the case, which takes away the claim from the petitioner herein stating that the backlog vacancy did not arise at all in 1995, as admittedly it was a direct recruitment exercise which was undertaken by the Corporation in the year 1995 and the first vacancy in such recruitment is always earmarked for O.C. Candidates under 200 Point Roaster System. This cannot be disputed at all by any party. Unfortunately, the petitioner was mistakenly under impression that it was a promotional exercise and therefore, backlog vacancy which was carried forward from 1992 to 1995, to be filled up by the S.C. candidate, namely, the petitioner herein. According to the learned Additional Advocate General, by mistake, it was construed that backlog vacancy which was sought to be filled up in 1992, but on re-appreciation of the facts by the competent authority, i.e. the first respondent, it was found in 1995, the Corporation had actually resorted to direct recruitment for the first time and therefore, on consideration of such factual scenario, the position got drastically changed and therefore, there was a rearrangement of seniority as between the petitioner and the fourth respondent, wherein the fourth respondent was placed above the petitioner.

19. In fact, this position was rather explained succinctly in paragraph 10 with rule position, which is extracted herein:

"10. With regard to the averments made in para 13 of the affidavit, it is submitted that, Section 27 of

TNGS (Conditions of Service) Act, 2016 stipulates that where the special rules lay down that the principle of reservation of appointments shall apply to any service, class or category, selection of appointment thereto shall be made by following the communal rotation (200 points roster) and also on the following basis:

The unfilled SC/ST vacancies arose in the recruitment by transfer	goes to the same type of recruitment as backlog vacancy (i.e.) goes to the method of recruitment by transfer and not to direct recruitment.
The unfilled SC/ST vacancies arose in the direct recruitment	goes to method of direct recruitment as backlog vacancy

20. As regards the appointment of the petitioner as Superintending Engineer In-charge in 2013, the learned Additional Advocate General would submit that since, it was an ad hoc arrangement, the Corporation did not follow the seniority at all. The said appointment was made without following seniority due to administrative exigency. In this case, the Corporation, in order to fill up the post of Superintending Engineer, had chosen the petitioner since the Corporation did not want one post of Superintending Engineer remain vacant as that would undermine the smooth functioning of the Corporation. This was more so when only three posts were available in the entire state in the level of Superintending Engineer. In any event, such appointment cannot give rise to any preferential right to the petitioner in order to claim seniority over the fourth respondent since even in terms of Rule of reservation, he cannot claim any seniority over the fourth respondent. He would therefore submit that the crucial issue which clinches the case against the petitioner is that the recruitment which took place in 1995 was Direct Recruitment, but not promotion and only in a promotion, the quota reserved for particular candidate can be carried forward not in another method of appointment.

21. At this, the learned Senior counsel for the petitioner would submit that no matter whether it was direct recruitment or promotion, the Rule of Reservation ought to be complied with and the backlog vacancies ought to be filled up first when the candidate belonging to reservation category was available. Only on such consideration, the seniority of the petitioner came to be revised in 2013 at the instance of the fourth respondent. He would once again place emphasis on Rule 22(d) and proviso attached to that Rule which according to the learned Senior counsel also talks about the recruitment which includes Direct Recruitment.

22. At this, this Court wanted to know whether any particular quota is provided for in the Rules governing the appointment for recruitment by promotion or for Direct Recruitment by transfer. According to the learned Additional Advocate General, no separate quota has been prescribed for any method of appointment and was the for the first time, the Direct Recruitment was resorted to in 1995 and as per per 200 Point Roster System was followed by the Corporation being controlled by the Government. The first vacancy was rotated in favour of O.C. candidates i.e., the fourth respondent herein and the second vacancy which was earmarked for S.C. candidate, was accommodated with the petitioner.

23. Mr.M.Velumurugan, learned counsel appearing for the fourth respondent made his submissions. According to the learned counsel, originally the seniority of the fourth respondent was fixed rightly and the fourth respondent was always shown as senior to the petitioner in the cadre of Assistant Engineer and promotions were also granted on the basis of such seniority. The situation changed only in 2013, when the third respondent revised list in favour of the petitioner. In fact, when this was objected to, it was not properly clarified by the Corporation. Therefore, the fourth respondent being not satisfied with the clarification continued his representations and when the occasion of filling up of post of Superintending Engineer on regular basis arose in 2017, it was objected to by the fourth respondent and on the basis of appraisal of the factual aspects of the matter which led to the appointment of the 4th respondent and the petitioner herein, the first respondent herein, took a conscious decision to revise the seniority of the fourth respondent above the petitioner. Therefore, it does not lie in the mouth of the petitioner to contend the fourth respondent did not protest at all when the fact of the matter was that the petitioner himself suffered lower seniority all along from 1995 till 2013. In any event, when a wrong was committed by the Administration, that wrong was sought to be rectified as wrongful act of the Administration cannot deprive an officer of the Government of his due seniority and consequent promotion to the next higher post and on realization of the mistake which had crept-in inter se seniority between the petitioner and the fourth respondent, the first respondent revised the seniority and restored the actual seniority of the petitioner. So, in that sense, there was no question to revision of seniority as contended by the learned Senior counsel on behalf of the petitioner. Therefore, the learned Senior counsel would submit entire claim of the petitioner as contended by the learned Additional Advocate General is misconceived, misplaced and

devoid of merits and substance.

24. Considered the submissions of the learned Senior counsel for the petitioner and the learned Additional Advocate General for the official respondents and Mr.M.Velumurugan, learned counsel for the fourth respondent and perused the entire materials and pleadings placed on record.

25. A singular point in issue that is placed for consideration before this Court, is whether the contention of the petitioner can be countenanced both in law and on facts, that one the vacancies which was filled up in 1995 in the cadre of Assistant Engineer actually belong to backlog vacancy particularly ear-marked for S.C. candidate or not?

26. It is an admitted position given by the petitioner as well as the respondents that in 1995, the third respondent Corporation has resorted to Direct Recruitment for the first time for filling up three posts of Assistant Engineers. In fact, the petitioner himself, in his affidavit, has pleaded in more than one place that it was for the first time, Direct Recruitment exercise was undertaken by the third respondent Corporation. If that be so, as per 200 Point Roaster System, Rule of Reservation had to be followed and in such event, the first vacancy had to go only to O.C. candidate and not to S.C.candidate. In fact, in this regard, it is useful to extract the impugned communication dated 11.01.2017 issued by the first respondent which is extracted herein.

"1. I am directed to refer the correspondence cited wherein Thiru M.Ravichander, B.E., Executive Engineer, Tamil Nadu Police Housing Corporation Limited, Avadi, Chennai has submitted a petition to re-fix his seniority in the post of Assistant Engineer by restoring his seniority over and above Thiru P.Kumareswaran and consider him for promotion as Superintending Engineer as per the revised seniority.

2.On examination it is found that earlier the Tamil Nadu Police Housing Corporation Limited has obtained certain clarification from the P&AR Department on the seniority fixed for the Assistant Engineers who were appointed on 03.07.1995. In that letter the Tamil Nadu Police housing Corporation Limited has indicated that Thiru P.Kumareswaran's vacancy was filled up as a backlog vacancy. Therefore, the P&AR Department in para 4 of their letter second cited have earlier confirmed the seniority as fixed by Tamil Nadu

Police Housing Corporation Limited. In as much as it has now come to the notice of the Government that the direct recruitment to the said post has commenced only in 1995, the question of backlog vacancy did not arise in this case at that time and the recruitment was governed only by the order of rotation then in force as ordered in G.O.Ms.No.159, P&AR Department, dated 27.06.1994. As per the Government Order the first vacancy in the said post will go to the open competition and the second to the Schedule Caste. In this case Thiru M.Ravichander who was selected against open competition will be placed at Sl.No.1 followed by Thiru.P.Kumareswaran who is selected against Schedule Caste will be placed at Sl.No.2 as per the order of rotation then existed.

3.I am therefore to request you to revise the seniority of the above individuals in the post of Assistant Engineer and then send the proposals to Government for promotion to the post of Superintending Engineer. The proposal sent with you letter sixth cited is returned herewith and the receipt of the same may be acknowledged."

27. From the above, it could be seen that as per instructions of G.O.Ms.No.159, P& AR Department, dated 27.06.1994, first vacancy would always go to the open competition and the second to the Scheduled Caste. No doubt that earlier, the seniority of the petitioner was revised to his advantage in 2013 and presumably on that basis, he was granted temporary promotion to the post of Superintending Engineer (In-charge). Nevertheless, on re-appreciation of the entire factual scenario in regard to the type of recruitment which happened in 1995, the Government felt that the fourth respondent was wronged in assigning the seniority below the petitioner.

28. This Court, on perusing the materials placed on record, is of the considered view that the recruitment which happened in 1995 was for the first time, a direct recruitment by the third respondent Corporation and if so, the first respondent has rightly re-appreciated the facts and revisited the assignment of the seniority between the petitioner and the fourth respondent and passed the impugned communication dated 11.1.2017 granting higher seniority to the 4th respondent above the petitioner in the cadre of Assistant Engineer.

29. Once it was clearly established that the recruitment which happened in 1995 was Direct Recruitment for the first

time, the Rule of Reservation (200 point Roster system) mandates the authority to fix the seniority on the basis of the said Rule of Reservation and on such consideration only, the seniority of the fourth respondent was revised to his advantage through the impugned communication dated 11.1.2017. This Court does not find anything amiss in the approach of the first respondent in revisiting the inter se seniority between the petitioner and the fourth respondent. When a wrong and erroneous act of the Administration was detected, in all fairness, such detection must be followed by rectification and in this case such rectification had been done by the Government by revising the seniority in 2017.

30. No doubt that it has taken some years for the Government to realize the mistake committed by the Administration in wrongly fixing the seniority between the petitioner and the fourth respondent, but nevertheless, the issue came up for consideration when the promotion of the petitioner as Superintending Engineer on regular basis was being considered for approval by the Government. Therefore, at that point of time, the first respondent woke up to the fact that there was a wrong fixation of the seniority and decided to correct the mistake.

31. As contended by the learned Additional Advocate General as well as Mr.M.Velumurugan, learned counsel appearing for the fourth respondent, the entire claim of the petitioner is on the basis that the third respondent Corporation has resorted to fill up the backlog vacancies, but the fact remained as established by the materials, it was for the first time, the Corporation resorted to Direct Recruitment process and therefore, the question of filling up of backlog vacancy did not arise at all in the year 1995. Unfortunately, the claim of the petitioner was entirely built on such premise and when such premise was found to be completely wrong, the claim of the petitioner falls to ground as a natural corollary.

32. In view of the above narrative, this Court is of the view that the other contentions made by the learned counsel for the petitioner about the fourth respondent not challenging the revision of seniority in 2013 and no notice has been given to the petitioner before the impugned communication issued on 11.1.2017, assumes no significance at all for this Court to address the same. When a mistake has been sought to be rectified by the Government, such objections like no prior notice was given nor delay on the part of the fourth respondent in making his representation, etc., are not relevant for this Court to consider since even even any notice given to the petitioner

would only be a useless formality. Ultimately, this Court has to see whether the Administration has acted fairly and properly. In this case, this Court is of the considered view that the Government on re-appreciation of the entire gamut of facts, has rightly taken conscious decision by revisiting the seniority of the petitioner and the fourth respondent and issued impugned communication revising seniority accordingly. On the whole, this Court feels that the impugned action of the Government does not suffer from any infirmity at all and the petitioner claim for seniority only on the basis of the carry forward of backlog vacancy, in such circumstances of the case, is misconceived and misplaced and therefore, the claim has to necessarily fail.

33. For the above said reasons, the Writ Petition in W.P.No.13503 of 2018 stands dismissed. No costs.

34. Consequently, the other writ petition in W.P.No.15549 of 2018 filed by the third respondent Corporation against the communication of the National Commission for Schedule Caste in Lr.No.P-6/Tamil Nadu-8/2017/SSW-1 dated 23.03.2018, directing the Corporation to reconsider the claim of the petitioner herein and submit an Action Taken Report to the Commission within three weeks time, is set aside in the light of the order passed in the above writ petition in W.P.No.13503 of 2018 rejecting the claim of the writ petitioner. Accordingly, the Writ Petition in W.P.No.15549 of 2018 is allowed. No costs.

35. Connected WMPs in both the Writ Petitions are closed.

Sd/-

Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

mrm/suk

To.

- 1.The Principal Secretary,
The State of Tamil Nadu,
Department of Home (Police X),
Fort St.George, Chennai - 600 009.
- 2.The Secretary to Government of Tamil Nadu,
Department of Personnel & Admin Reforms,
Fort St.George, Chennai - 600 009.

3.The Chairman & Managing Director,
Tamil Nadu Police Housing Corporation Ltd.,
132, EVR Salai, Kilpauk, Chennai - 600 010.

4.Vice Chairman,
National Commission for Schedule Castes,
5th Floor, Loknayak Bhavan,
Khan Market, New Delhi - 110 003.

5.National Commission for Schedule Castes,
State Office, Shastri Bhavan,
Floor 2 (Block 5), Chennai - 06.

+1cc to Mr.Isaac Chambers, Advocate SR.84829

W.P.No.13503 of
2018 & 15549 of 2018

EV(CO)
CB(18/12/2019)