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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.08.2021

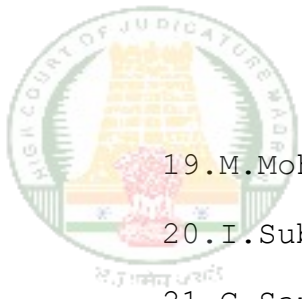
CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.No.14410 of 2020
and
W.M.P.No.17897 of 2020

(Through Video Conferencing)

- 1.R.Paranthaman
- 2.S.Vijaya
- 3.B.Leo Janci Rani
- 4.R.Revathi
- 5.P.Lakshmi
- 6.R.Rajeswari
- 7.R.Sudha
- 8.B.Ruby
- 9.N.Mahalakshmi
- 10.K.Pasamalar
- 11.S.Malarkodi
- 12.R.Muthurakku
- 13.P.Vasanthi
- 14.J.Saraswathi
- 15.A.Kavitha
- 16.G.Suganthi Malarkodi
- 17.CS.Kalaimathi
- 18.R.Vijaya



19.M.Mohan Das

20.I.Suba

21.C.Sangeetha

22.M.Johnjeyasingh

23.J.Suresh Wilson

24.N.Natchathiram

25.P.Maheswari

26.M.Asia

27.S.Subbu Lakshmi

28.Anbazhagan

29.M.Maheswari

30.S.Chitra

31.A.Ilangovan

32.I.Maheswari

33.R.Gandhi Manickam

34.K.Kavitha

35.S.V.Arun

36.K.Murugan

37.Malarvizhi

38.S.Vinod Samuvel

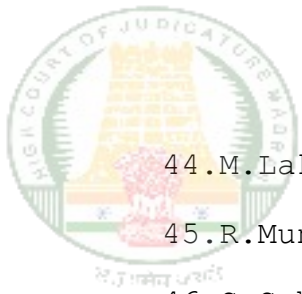
39.M.Manoharan

40.S.Ramesh

41.M.Poonkodi

42.T.Tamilarasi

43.A.Jaseetha



44.M.Lakshmi

45.R.Munivel

46.S.Subramaniyan

47.M.R.Vijaya Rajeswari

48.T.Ganapathy

49.A.Selva Rani

50.M.Lavanya

... Petitioners

Vs.

1. State of Tamil Nadu
Represented by its Secretary to
Govt., Home (Police - III) Department,
The Secretariat, Chennai - 5.

2. Director General of Police
Dr.Radhakrishnan Salai, Chennai - 05.

3. Additional Director General of Police,
Armed Police, Lutens Garden,
Kilpauk, Chennai - 10.

... Respondents

Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Mandamus, to direct the respondents to grant retrospective promotion to the petitioners as Sub-Inspectors of Police on a par with their batch mates who were promoted as Sub-Inspectors of police with effect from 03.07.2008 vide R.C.No.A1/13545/2008, R.O.No.325/2008 and approved on 11.12.2009 vide R.C.No.A1/14925/2009, R.O.No.430/2009 with all consequential benefits besides fixing inter-se seniority based on low marks secured by them at Police Recruit School in the post of S.I. of Police within time.

For Petitioners : Mr.K.Ravi Anantha Padmanaban

For Respondents : Mr.L.S.M.Hasan Fizal, Govt. Adv.

O R D E R

The petitioners were appointed as Grade-I police in the year 2002. Some of the persons recruited along with the petitioners were sent for training earlier whereas the petitioners were sent for training later.



2. It is the case of the petitioners, those who were sent for training earlier were promoted as Sub-Inspectors in the year 2000 whereas the petitioners sent in second batch were not considered for promotion by the respondents though they were scored higher marks in the exams conducted by the Police Recruit School. It is under these circumstances, this writ petition has been filed. It is the case of the petitioner that the law and subject is clear and has been settled by the Hon'ble Supreme Court in A.Raghu Vs Government of Andhra Pradesh and others, 2015 (14) SCC 2021.

3. The learned counsel for the petitioners further submits that the Hon'ble Supreme Court has interpreted the provisions of the Andhra Pradesh Police (Civil) Subordinate Service Rules notified on 26.08.1959 and has held as follows:-

"16. We will venture to determine the controversy in hand, by adopting a three-step consideration process. We shall thereupon record our conclusion.

Consideration, One:

We shall, in the first instance, examine the seniority position only with respect to Munuswamy. The name of Munuswamy was included in the list of selected candidates issued by the Director General & Inspector General of Police, Andhra Pradesh, Hyderabad, vide letter dated 11.4.1991/7.5.1991. It is not a matter of dispute, that the aforesaid Munuswamy was originally deputed for training at the police training college on 15.7.1991. Munuswamy, however, could not complete his training on account of the fact, that he did not participate in the examination conducted at the end of the training, due to personal reasons. The aforesaid Munuswamy was allowed to complete his training, along with the batch of candidates deputed for training in the succeeding batch, on 14.6.1992. The above factual position, which was duly taken into consideration by the Administrative Tribunal, and by the High Court, was not disputed during the course of hearing before us. The question which arises for our consideration is, whether Munuswamy would be entitled to be included in the seniority list, along with the batch of candidates, with whom he was originally deputed for training on 15.7.1991, or with the batch of candidates who were deputed for



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training thereafter, on 14.6.1992. Having given our thoughtful consideration, and keeping in mind the basic principle underlying the relevant proviso to rule 15 (extracted at the beginning of this judgment), we are of the considered view, that the mandate for the determination of seniority under the aforesaid proviso is to the following effect. Firstly, inter se seniority of Sub-Inspectors of Police is not to be determined in accordance with the merit list drawn up, "at the time of their selection". And secondly, inter se seniority of Sub-Inspectors of Police has to be determined on the basis of "the aggregate of marks obtained by each probationer", "at the final examination" on the conclusion of their training, at the police training college(s). Insofar as the aforesaid Munuswamy is concerned, it is not open to the candidates deputed for training in the first instance to contend, that though Munuswamy's name was included in the list of provisionally selected candidates issued on 11.4.1991/7.5.1991, his seniority ought to be determined along with the candidates deputed for training later. It is apparent, that insofar as the Munuswamy is concerned, since his name was included amongst the names of candidates provisionally selected as Sub-Inspectors of Police vide letter dated 11.4.1991/7.5.1991, those deputed for training vide the same letter (dated 11.4.1991/7.5.1991) can not be permitted to contend, that his seniority cannot be determined alongwith them. The above mentioned course, suggested by the learned counsel for the appellants, is not open, because the same would give primacy to something beyond the purview of the proviso to the rule in question. We have no doubt in our mind, that Munuswamy, must figure in the seniority list along with those deputed for training on 15.7.1991, for the simple reason, that his name existed in the list of names (including the appellants), deputed for training vide letter dated 11.4.1991/7.5.1991. There can, therefore be no doubt whatsoever, that insofar as Munuswamy is concerned, even though he completed his training in the course which commenced from 14.6.1992, his position in the inter se seniority list was bound to be reflected alongwith those with whom he was deputed for training, according to the aggregate



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of marks obtained by him, on the completion of his training at the police training college, in terms of rule 15.

Consideration, Two:

Insofar as this step is concerned, we shall exclusively take into consideration the manner of determination of seniority of candidates appointed as Sub Inspectors of Police, against the vacancies belonging to the PE, PM and SP quotas, consequent upon the directions issued by the Administrative Tribunal, dated 30.7.1991 (while disposing of Original Application no. 29957 of 1991). In this behalf, it is relevant to mention, that the vacancies falling to each of the aforesaid quotas, was found to have been incorrectly determined by the State Government, while making appointments in furtherance of the notification dated 22.1.1991. The Administrative Tribunal accordingly, directed the State Government, to re-calculate the strength of the said quotas, and to make appointments. It is not a matter of dispute, that consequent upon the determination of the Administrative Tribunal, the quotas with reference to the aforesaid cadres, which had wrongly been determined, for each of the zones, were re-calculated. The State Government on re-calculation of the vacancy position, with reference to the PE, PM and SP quotas, appointed candidates from the aforesaid quotas, out of the selection process conducted by the Recruitment Board, in furtherance of the notification dated 22.1.1991. Thereupon, they were deputed for training on 14.6.1992. It is, therefore apparent, that had the quotas been correctly determined by the State Government, these candidates would have been originally appointed along with others, when the letter dated 11.4.1991/7.5.1991 was issued by the Director General & Inspector General of Police, Andhra Pradesh, Hyderabad. In the above eventuality, they would have been deputed for training in the very first instance on 15.7.1991. For no fault of theirs, despite their selection in the same recruitment process, which was conducted in furtherance of the notification dated 22.1.1991, they were deputed for training on 14.6.1992. The delay in deputing the candidates belonging to PE, PM and SP quotas,



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squarely falls on the appointing authority, and not on the candidates who were subsequently deputed for training from the PE, PM and SP quotas. For exactly the same reason, as had been depicted under "Consideration, One" above, we are of the view, that those deputed for training against the PE, PM and SP quotas on 14.6.1992, being not in any manner responsible for their not having been deputed along with the originally selected candidates on 15.7.1991, are liable to a fixation in the seniority list, in exactly the same manner as Munuswamy. This is liable to be done in terms of the mandate of the relevant proviso to rule 15 aforementioned, by interspersing them along with those included in the original seniority list, by determining their position on the basis of the aggregate marks obtained by them, in the final examination, at the conclusion of their training at the police training college(s).

Consideration, Three:

In "Consideration, One" and "Consideration, Two" above, we have concluded, that even though the appointees in question were deputed for training on 14.6.1992, their seniority had to be determined alongwith the candidates who had been deputed for training on 15.7.1991. We shall now endeavour to consider the manner of fixing inter se seniority of the candidates, who were selected in the process of selection conducted in furtherance of the notification dated 22.1.1991, by the Recruitment Board, but had not been appointed on account of the fact, that they did not fall within the number of vacancies advertised. It is however relevant to notice, that after the issuance of the letter dated 11.4.1991/7.5.1991, whereby provisionally selected candidates were deputed for training to fill up the advertised vacancies for the posts of Sub Inspector of Police in all the 7 zones, it came to be realized, that all the provisionally selected candidates did not join the police training college(s) for the said training. So far as Zone V (Warangal range) is concerned, only 58 candidates joined training. At that very moment, it was open to the appointing authority to depute further candidates for training, out of those whose



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names fell immediately below the names of candidates deputed for training vide letter dated 11.4.1991/7.5.1991, against the balance vacancies. The competent authority, however, delayed in deputing the names of these candidates. It eventually deputed these candidates for training on 14.6.1992. From the factual position depicted hereinabove, it is not possible for us to accept, that the candidates, who were deputed for training on 15.7.1991, and those deputed for training on 14.6.1992 to fulfill the deficiency, can be described as two different batches. The selection process having been joint, and in furtherance of the same notification dated 22.1.1991 (issued by the Recruitment Board), it is inevitable for us to conclude, that the candidates deputed to the two different courses of training (on 15.7.1991 and 14.6.1992) were essentially candidates belonging to a singular batch, who were selected through a common process of selection. In fact, the instant inference, insofar as the issue of inter se seniority is concerned, is inevitable, as the dates on which the candidates were deputed for training, are inconsequential, so far as rule 15 is concerned. Rule 15 leaves no room for any doubt, that even the merit position in the selection process is not to be taken into consideration, while determining the inter se seniority of candidates selected from a common process of selection. If we were to accept the contention advanced on behalf of the appellants, that those deputed in the first batch should be placed above all those deputed in the second batch, we would necessarily be placing the selected candidates in two groups, based on their merit position in the selection process. Those deputed for training in the two batches (of 15.7.1991 and 14.6.1992), came to be so deputed, only because of their respective merit position in the selection process. This determination would be in clear breach of the proviso to rule 15, which postulates, that inter se seniority of SubInspectors of Police, is not to be determined in accordance with the merit list drawn up "at the time of their selection". The seniority of candidates, who are selected from a common process of selection, is to be determined on the basis of the final aggregate marks obtained by them, during the course of



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their training, at the police training college (s) in the State of Andhra Pradesh. That being the mandate of the rule, we are of the considered view, that for candidates who had participated in a common process of selection, irrespective of the dates on which they were deputed for training, their inter se seniority is liable to be determined, on the basis of the aggregate of marks obtained by them, at the final examination at the concerned police training college. This interpretation placed by us on rule 15 of the Service Rules, satisfies the underlying principle given effect to in the rule, namely, that the candidates appointed against the posts of Sub-Inspector of Police, were to be arranged in the seniority list, not on the basis of the marks obtained in the process of selection, but according to the aggregate marks obtained by them, at the culmination of the training processes. Additionally, the instant interpretation would result in a uniform determination of the three separate considerations dealt with by us. It would be absurd to apply one principle to Munuswamy, another principle to those selected and appointed in furtherance of the directions issued by the Administrative Tribunal on 30.7.1991 (in Original Application no. 29957 of 1991), and a separate principle for determining seniority of candidates who were deputed for training later, because some of the selected (and appointed) candidates did not join training. This process of deputing candidates for training, could have been adopted within a few days, of the candidates not assuming training, at the police training college(s) despite being required to do so. The concerned authorities delayed the matter, for about a year. Neither is it possible for us to find fault with the concerned individuals deputed for training belatedly, nor is it possible for us to interpret a simple and straightforward rule of seniority differently, just because, candidates were deputed to the training course belatedly."

4. The learned counsel for the petitioners further submitted that Rule 15 of the Andhra Pradesh (Civil) Subordinate Service Rules is pari materia with Rule 25 of the Special Rules for the Tamil Nadu Police Subordinate Service. Rule 15 of the Andhra Pradesh (Civil) Subordinate Service Rules reads as under:-



Rule 15 of the Andhra Pradesh (Civil) Subordinate Service Rules

"15. "Seniority:-

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(a) The seniority of a person in the class or category or grade shall, unless he has been reduced to lower rank as a punishment be determined by the date of his first appointment to such class or category or grade. If any portion of the service of such person does not count towards his probation under the General Rules his seniority shall be determined by the date of commencement of his service which counts towards probation:

Provided that in the case of Sub-Inspectors, Sub-Inspectors of Police (Intelligence) and Reserve Sub-Inspectors, the seniority inter se shall be fixed on completion of training in the Police Training College or with the Andhra Pradesh Special Police, as the case may be, instead of at the time of selection in accordance with the list which shall be arranged in order of merit, which shall be determined in accordance with the aggregate of marks obtained by each probationer-

(i) in respect of his record in the Police Training College or with the Andhra Pradesh Special Police, as the case may be; and

(ii) at the final examination.

In determining such order of merit, no account shall be taken of marks awarded to a probationer in any subject in which he has failed. But such seniority shall be liable to revision by the Deputy Inspector General of Police concerned if he considers it necessary, before completion of probation.

This sub-rule shall not affect the seniority of any members of the service which may have been fixed expressly or by implication before the 19th November, 1941 or any orders as to seniority which may have been passed by competent authority before the 19th November, 1941.

Provided that in the case of directly recruited Sub-Inspectors of Police (Intelligence) the inter



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se seniority shall be fixed on completion of training the Police Training College/Andhra Pradesh Police Academy, instead of at the time of selection, in accordance with the list which shall be arranged in order of merit, which shall be determined in accordance with the aggregate of marks obtained by each probationer in the tests and examinations prescribed for them in the training modules conducted at these Institutions.

The seniority of the Sub-Inspectors of Police (Intelligence) appointed by transfer from among Sub-Inspectors of Police (Civil) or equivalent ranks of this service carrying the same scale of pay shall not be treated as first appointment but shall be determined with reference to the date of his seniority in the Class or Category from which he was transferred.

Provided also that the inter se seniority of the Sub-Inspectors selected from among the Reserve Sub-Inspectors of Armed Reserve and Andhra Pradesh Special Police Battalions by transfer shall be fixed in the order of merit for each Range (Zone) separately based on the aggregate marks obtained by them in the final examination conducted at Police Training College at the end of six months training. In determining such order of merit, the marks secured in the failed subjects need not be taken into account.

(b) The appointing authority may, at the time of passing an order appointing two or more persons simultaneously to a class or category fix for any reason the order of preference among them; and where such order has been fixed, seniority shall be determined in accordance with it.

(c) The transfer of a person from one class or category of the service to another class or category carrying the same pay or scale of pay shall not be treated as first appointment to the latter for purposes of seniority and the seniority of person so transferred shall be determined with reference to the date of his first appointment to class or category from which he was transferred. Where any difficulty or doubt arises in applying this sub-rule, seniority shall be determined by the appointing authority. (d) Where a member of the service in any class, category or grade is



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reduced to a lower class, category or grade, he shall be placed at the top of the ladder unless the authority ordering such reduction directs that he shall take rank in such lower class, category or grade next below any special member thereof.

(e) The seniority of qualified special policemen appointed by transfer as constables in this service shall be determined by the date of their first appointment in this service for purposes of confirmation in vacancies in this service.

(f) The seniority of the Prohibition staff absorbed in this service shall be determined on the basis of their pay fixed with reference to Fundamental Rules 22 and 31, in the service:-

Provided that the inter-se seniority of these at the same stage of the time scales of pay of the service will be determined by the dates on which they began to draw pay at that stage; and Provided further that no member of the Excise and Prohibition Department will, on appointment to this service, be senior to any member of the service who has put in the same or more period of service than himself. In the case of members of such ranks in the Excise and Prohibition Department, the scales of pay of which correspond to the scales of pay of the ranks of this service, the date of their first appointment in the Excise and Prohibition Department shall determine the seniority."

5. The learned counsel for the petitioner refers to Paragraph 5 of the Counter Affidavit which reads as under:-

"5. It is submitted that the persons who were sent for training on 16.04.1997 have obtained higher marks in the recruitment process and the petitioners who were sent for training on 31.10.1997, have secured low marks when compared to the first batch persons. During the year 1997 (i.e.) 23 years back, the infrastructure facilities were not available sufficiently to impart training to 10,000 persons at a time. Hence, it has been decided to impart training to senior persons who have secured higher marks in the selection process at first and then to remaining persons who have



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secured lower marks. But, the petitioners have wrongly contended that those who have secured low marks, are included. Hence, it is clear that the petitioners were separated for training based on their gradation of marks secured by them in all the three stages of recruitment process and not separated randomly. Hence, their contention about the fixation of seniority is baseless. As per the existing rules, the seniority of Grade II PCs has to be fixed as a batch based on the low marks obtained by them in the Police Recruit School as per the Rule 24(d) of TNSPSS which is extracted below:-

"The seniority of Police Constables who are appointed on or determined with reference to the marks obtained by them in the final examination conducted at the recruits schools. In the case of those who secured same marks, seniority shall be decided with reference to their date of birth. (Added in G.O.Ms.No.843/Home (Pol VIII) Dated 31.03.1987). After 01.07.1977 according to rule of reservation shall be decided with reference to their date of birth (Added in G.O.Ms.No.843/Home (Pol VIII) Dated 31.03.1987)"

6. The learned counsel for the petitioner also refers to the decision of the Hon'ble Division Bench of this Court in the case of The Secretary to Government, Home (Police-3) Department, Chennai - 9 and another Vs J.Pratap Prem Kumar, passed in W.A.No.1581 of 2010, dated 05.09.2011, wherein, in Paragraph 8, this Court has held as follows:-

"8. In view of the above, for the purpose of fixation of seniority of the respondent, the relevant date must be the date on which he was selected and not otherwise. For the purpose of re-fixing the seniority on the date of selection, the marks obtained by the respondent shall also be take in into consideration."

7. Appearing on behalf of the respondents, the learned Government Advocate submits that the petitioners have approached this Court belatedly by filing this Writ Petition. It is submitted that about 10,000 (Ten Thousand) persons were recruited in the recruitment called for during the year 1995-1996 and 5,000 (Five Thousand) persons were sent for training 16.04.1997 and balance 5,000 (Five Thousand) were sent for training on 31.10.1997. It is submitted that some of them were placed in the law and order and some of them were placed in



Armed Reserve and Taluk depending on the merits and the marks secured at the time of selection.

8. The learned Government Advocate for the respondents submits that if the prayer in the Writ Petition is allowed, it will result in a huge outflow finance which has not been budgeted by the Government and it would impact seniority among the persons, particularly in the Tamil Nadu Police Battalions who are governed by Tamil Nadu Special Police Subordinate Service Rules, 1978. It is submitted that the seniority was determined based on the marks secured at the time of selection.

9. The learned Government Advocate for the respondents further submits that the decision of the Hon'ble Supreme Court in A.Raghu Vs. Government of Andhra Pradesh and Others, 2015 (14) SCC 2021 (check) is not applicable to the facts of the present case in as much as the inter-se seniority in the persons who are absorbed in the Battalions is to be determined in terms of Rule 24(d) of the Tamil Nadu Special Police Subordinate Service Rules which reads as under:-

24.Seniority

(a).....

.....

(d) The seniority of Police Constables who are appointed on or after 01.07.1977 according to the rule of reservation shall be determined with reference to the marks obtained by them in the final examination conducted at the Recruits Schools. In the case of those who secured same marks, seniority shall be decided with reference with reference to their date of birth.

10. Heard the learned counsel for the petitioners and the learned Government Advocate for the respondents. I have perused the affidavit and additional affidavit filed in support of the present writ petition and the counter affidavit filed by the third respondent.

11. The petitioners were absorbed in the service during 1997. The petitioners were the successful candidates who cleared the competitive exam conducted by the Recruitment Board. The petitioners were sent for training on 31.10.1997 after 16.04.1997 when the first batch was sent for training. It is the contention of the respondents in their counter that even though the persons in the first batch secured lower mark in the final examination at the Police Recruit School when compared with the second batch persons PRS marks, the first batch persons are seniors. The respondents have also stated as follows:-



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Even though 1st batch person secured low marks in the final examination at the Police Recruit School when compared to the 2nd batch person PRS marks, 1st batch persons are seniors only. Because date of sitting of the final examination is different.

12. Thus, there is no dispute that the petitioners had secured higher marks than some of the candidates in the first batch persons who were sent for training on earlier occasion on 16.04.1997 based on the marks obtained by them at the time of selection. Rule 24(d) of the Tamil Nadu Special Police Subordinate Service Rules, 1978 which has been extracted above makes it very clear that seniority of Police Constable shall be determined with reference to the marks obtained by them in the final examination conducted at the Recruits Schools subject to the rule of reservation. In the case of those who secured same marks, seniority shall be decided with reference to their date of birth.

13. Thus, the marks secured at the time of selection pursuant to the competitive exam calling for application is of no relevance. The Hon'ble Supreme Court has answered the issue in the above case cited by the learned counsel for the petitioners in the context of Rule 15 of the Andhra Pradesh Police (Civil) Subordinate Service Rules.

14. The decision of the Hon'ble Supreme Court has also been followed by the Division Bench of this Court in its decision dated 05.09.2011 in The Secretary to Government, Home (Police-3) Department and another v. J.Pratap Prem Kumar in W.A.No.1581 of 2010. The Division Bench while interpreting Rule 25(a) of the Special Rules for the Tamil Nadu Police Subordinate Service had held that in the context of inter-se seniority among the person who are eligible to be promoted, date of selection is the criteria to decide the seniority and not the date of training.

15. In G.O. (Ms.) No.1055, Home (Police.III) Department, dated 01.11.2006, the Government of Tamil Nadu has also accepted the proposals of Director General of Police, Chennai vide Letter No.182856/NGB.V(2)/2006, dated 12.09.2006, wherein, the provision relating to conduct of Range Promotion Board Tests was to be deleted.

16. The petitioners have also demonstrated in the answers elicited under RTI the proceedings of the Additional Director General of Police (Admn.), Chennai - 600 004, dated 19.07.2018 bearing reference Rc.No.162187/Rect.II(1)/2016. Relevant portion of the said proceedings reads as follows:-



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3. In the matters related to fixation of the seniority of Women Sub-Inspectors of Police recruited for the year 2001-2002, the Hon'ble High Court in its orders, dated 27.06.2017 in WP Nos.36260/2015, 1827/2015, 4355/2016, 9939/2016 and 2761/2017 (Wherein the Government and Director of Police have been impleaded as first and second respondents) have observed as follows:-

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.

4. The Government in their orders in G.O. (Ms) No.868, Home (Pol-3) Department, on 21.11.2017, have inserted the following proviso after the fifth proviso to sub rule (a) of rule 25 of special rules for Tamil Nadu Police Subordinate Service 1955, namely:-

"Provided that the seniority of the Sub-Inspectors of Police directly recruited under the departmental quota shall be fixed above the person directly recruited under open quota in the same recruitment"



The amendment shall be deemed to have come into force on 13th July 1995 and the above said amendment has been notified in Tamil Nadu Government Gazette No.50, dated 13.12.2017.

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5. Hence, in compliance to the orders of the Hon'ble High Court, Madras in its orders, dated 27.06.2017 the draft seniority list was sent to the Women Sub Inspectors of Police recruited during the year 2001-2002 through unit officers vide this office Proceedings in Rc.No.168187/Rect.II(1)/2015, dated 21.12.2017. The Unit Officers were requested to communicate the draft seniority list sent vide this office proceedings in Rc.No.168187/Rect.II(1)/2015, dated 21.12.2017 to the concerned Women Sub-Inspectors working in their Districts / Cities / Units through the Sub-Divisional Officers/Concerned DSPs under proper acknowledgment besides displaying the same in the noticed board. Further the Unit Officers concerned were requested to instruct the Women Sub Inspectors to file the objections, if any, before 05.01.2018. Several reminders were sent vide fax message, dated 05.01.2018, 10.01.2018, 18.01.2018, 13.02.2018, 15.02.2018. The objections of the WSIs recruited for the year 2001-2002 forwarded by the unit officers have been scrutinised. Out of 939 Women Sub-Inspectors of Police, 606 No. of Women Sub Inspectors of Police of 2001-2002 filed their objections.

6. The Women Sub Inspectors of Police recruited for the year 2001-2002 have raised the following objections. After scrutinising the objections raised by the Women Sub Inspectors of Police recruited for the year 2001-02, the following decisions were taken. The gist of the objections received and decisions taken thereon are summarised and given below:-

Objection No.	Objection details / Decisions
1	



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Objection No.	Objection details / Decisions
5.	Objections Not to place candidates sent for training in second batch or subsequent batch along with first batch candidates Decisions:- As all these candidates were recruited against the notified vacancies and sent for training belatedly and as the delay is not attributed to their part, their seniority was fixed as per Rule 25(a) of Special Rules for Tamil Nadu Police Subordinate Service.

17. Though this above clarification has been issued in the context of Rule 25 of the Special Rules for Tamil Nadu Police Subordinate Service, it is applicable even in the context of Rule 24 of the Tamil Special Police Subordinate Service Rules, 1978 which reads as under:-

Rule 24. Seniority. - (a) The seniority of a person in a category shall, unless he has been reduced to a lower ranks 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.

Provided that the seniority of a person recruited direct to the category of Sub-Inspector shall be determined on the basis of the marks obtained by him in the final examination held at the end of the training.

Provided that the seniority of the Sub-Inspectors directly recruited from among the members of this service and the members in the Tamil Nadu Police Subordinate Service shall be fixed above the direct recruits selected from open market in the same year.

(b) The transfer of a person from one category to another category carrying the same pay or scale



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of pay shall not be treated as first appointment to the latter for purposes of seniority and the seniority of a person so transferred shall be determined with reference to the rank the category from which he was transferred. Where any difficulty or doubt arises in applying this sub-rule, seniority shall be determined by the appointing authority.

(c) Where a member of the service is reduced to a lower category, he shall be placed at the top of the latter, unless the authority ordering such reduction directs that he shall take rank in such lower category next below any specified member thereof.

(d) The seniority of Police Constables who are appointed on or after 1-7-77 according to rule of reservation shall be determined with reference to the marks obtained by them in the final examination conducted at the recruits schools. In the case of those secured same marks, the seniority shall be decided with reference to their date of birth.

(e) The Inter-se-seniority of those appointed by more than one method of recruitment and if their date of appointment to the category happens to be one and the same shall be decided with reference to their age.

(f) Any person serving in any post in specialist category (other than regular line) may opt for transfer to general category (regular line). On transfer to the General Category, such person shall take his seniority immediately above his junior serving in any post in general category, if he is otherwise qualified to hold the post. For determining the seniority for this purpose, the seniority at the time of entry into the Tamil Nadu Special Police Subordinate Service shall be taken into account. A person in the specialist category shall not have any advantage in the general category by virtue of the promotion, if any, earned by him in the specialist category in the event of his transfer or reversion from specialist category to general category either at his option or otherwise.



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18. Rule 24 of the Tamil Special Police Subordinate Service Rules, 1978 is similar to Rule 15 of the Andhra Pradesh (Civil) Subordinate Service Rules which fell for consideration in A.Raghu Vs Government of Andhra Pradesh and others, 2015 (14) SCC 2021 and Rule 25 of the Special Rules for the Tamil Nadu Police Subordinate Service.

19. The seniority among the in-service candidates is to be determined based on the marks secured by them in the Police Recruit School as per these rules. In the light of the above, it stands concluded that inter-se seniority was to be determined based on the marks secured by the petitioners in the Police Recruit School and not based on the marks secured by them at the time of initial selection.

20. Therefore, this Writ Petition deserves to be allowed notwithstanding the fact that the exercise that is to be carried out by the respondent may result in a out flow of finance which was not contemplated earlier. The respondents have failed to maintain inter-se seniority among the petitioners contrary to Rule 24(d) of the Tamil Nadu Special Police Subordinate Service Rules, 1978 which is applicable to the petitioners.

21. If wrong fixation of seniority has resulted in excess payment to some of the personnel, the respondents may issue appropriate notice to those personnel and recover the excess payment in accordance with law and well settled principles in State of Punjab and Others Vs. Rafiq Masih (White Washer) and Others, (2015) 4 SCC 334.

22. The respondents are therefore directed to give effect to this order within a period of twelve weeks from the date of receipt of a copy of this order with consequential benefits to persons who scored higher marks in the Police Recruit School than the persons who were earlier promoted based on the marked obtained by them at the time of their initial selection. The respondents are also directed to notionally promote the petitioners with effect from the date on which their batch mates were promoted as Sub-Inspectors of Police in the year 2008.

23. Accordingly, this Writ Petition is allowed. No cost. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary,
Home (Police - III) Department,
State of Tamil Nadu
The Secretariat, Chennai - 5.

2. Director General of Police
Dr.Radhakrishnan Salai, Chennai - 05.

3. Additional Director General of Police,
Armed Police, Lutens Garden,
Kilpauk, Chennai - 10.

+1CC to Mr.K.Ravi Anantha Padmanaban, Advocate, Sr.No.42500

+1CC to Government Pleader, Sr.No.43005

W.P.No.14410 of 2020 and
W.M.P.No.17897 of 2020

KG (CO)

K.RK. (23.09.2021)