



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **06.09.2016**

CORAM

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**

W.P(MD)No.10638 of 2016

and

W.M.P(MD)Nos.8250 to 8252 of 2016

WEB COPY

K.Perumalswamy

... Petitioner

Vs.

1.The Director General of Police,
Mylapore,
Chennai -4.

2.The Deputy Inspector General of Police,
Training, Police Training College,
Chennai - 83.

3.S.Santhanaraman

... Respondents

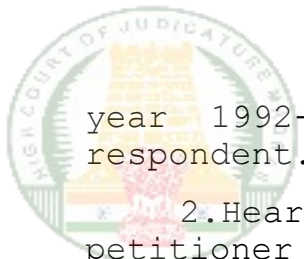
Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned seniority list published by the 1st respondent in his proceedings in C.No.204107/NGB VI(1)/2011, dated 14.08.2012, insofar as the third respondent seniority is concerned and the consequential rejection order passed by the 1st respondent in his proceedings in Rc.No.151820/NGB VI(1)/2015 dated 06.05.2016 and quash the same as illegal and consequently to direct the 1st respondent to re-fix the name of the petitioner in the inter-seniority in the 'C' list of Junior Assistant fit for promotion to the post of Assistant for the panel year 1992-1993 in the appropriate place i.e., above the 3rd respondent within the period that may be stipulated by this Court.

For Petitioner : Mr.C.Venkatesh Kumar
for M/s.Ajmal Associates

For R1 and R2 : Mr.M.Lingadurai
Government Advocate

ORDER

This Writ Petition is filed for issuance a Writ of Certiorarified Mandamus, to quash the impugned seniority list published by the first respondent vide proceedings, dated 14.08.2012, insofar as the seniority of the third respondent is concerned and the consequential order passed by the first respondent, dated 06.05.2016, and to direct the first respondent to re-fix the seniority of the petitioner in the *inter se* seniority list of Junior Assistant fit for promotion to the Assistant for the panel



year 1992-93 in the appropriate place, ie., above the third respondent.

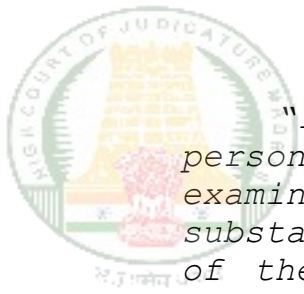
2.Heard Mr.C.Venkatesh Kumar, learned Counsel for the petitioner and Mr.M.Linga Durai, learned Government Advocate appearing for the respondents 1 and 2.

3.Brief facts, that are necessary for the purpose of disposal of this Writ Petition, are as follows:

3.1.The petitioner is working as a Superintendent at Police Recruits School, Madurai District. The petitioner was originally appointed as Junior Assistant on 27.04.1987 on compassionate ground at District Police Office, Virudhunagar District. It is admitted that the petitioner completed probation on 08.05.1989 and his service was regularised with effect from 27.04.1987. Even in the impugned order, it is stated that the petitioner passed all the departmental examinations and became fully qualified to the post of Assistant at the crucial date ie., on 15.03.1990, for the 1990-1991 panel.

3.2.By the impugned order, dated 06.05.2016, it is stated that the petitioner had not reached the zone of consideration for the panel years 1990-91 to 1993-94. It is stated that the petitioner's name was included in the list of Junior Assistant/Typist fit for promotion as Assistant for 1996-97 panel and the petitioner was promoted only on 11.07.1997, as Assistant. The petitioner admitted that he was further promoted as Superintendent on 05.04.2010. It is the case of petitioner that the third respondent was appointed on 04.05.1987, pursuant to a recruitment notification, which was originally issued in 1983. Since the third respondent was promoted by including his name in the panel prepared for 1992-93, it is contended by the petitioner that the third respondent, who is junior to the petitioner being promoted on 03.05.1993, the petitioner is also entitled to get his name included just above the third respondent, even in the promotional panel, that was given effect subsequently.

4.The third respondent was appointed pursuant to the recruitment process, that was initiated by Tamil Nadu Public Service Commission in the year 1983. Several persons, who were recruited through Tamil Nadu Public Service Commission in 1983, filed batch of Writ Petitions before this Court for a direction to draw the seniority list in the post of Assistant in Tamil Nadu Ministerial Subordinate Service, Police Department, by placing the TNPSC-1983 batch candidates above the persons, who are appointed on compassionate ground or under rule 10(a)(1) by reckoning the date of entry into service as November 1983, ie., the date of competitive examination conducted by Tamil Nadu Public Service Commission. It is admitted that the said batch of Writ Petitions were allowed partly by the Honourable Division Bench of this Court, by common order, dated 03.06.2006. Paragraph Nos.12 to 14 of the order run as follows:



"12.It is therefore, obvious that the seniority of a person appointed on the basis of November, 1983 examination, has to be fixed on the basis of the date of substantive appointment and not on the basis of the date of the examination. As a matter fact, this aspect has been very elaborately clarified by Justice Sathiadev, in the decision dated 08.04.1988, which has been specifically approved by the Division Bench. Hence, we are not inclined to take any different view of the matter. In view of the direction clearly indicated in paragraph 9 of the judgment of the learned Single Judge, which has been specifically approved by the Division Bench, it is apparent that the question of seniority of the person appointed through TNPSC or person appointed on compassionate ground, has to be fixed on the basis of the date of appointment.

13.So far as General Rules 10(a)(i) candidates are concerned, obviously such candidates have to be ranked below the TNPSC candidates irrespective of the date of appointment of such TNPSC candidates and the Special Absorption Rules candidates. In other words, 10(a)(i) appointees have to be ranked below the last TNPSC candidate selected on the basis of the examination held in November, 1983. Since the validity of such rule has not at all been challenged, the General Rules 10(a)(i) candidates are deemed to be below all candidates selected on the basis of November, 1983 examination held by the TNPSC.

14.For the aforesaid reason, the Writ Petition Nos.3822 and 3823 of 2006 filed by the government, are dismissed. Writ Petition No.21654 of 2004 is partly allowed, and it is directed that the candidates selected by the TNPSC on the basis of the examination held in November, 1983, shall rank above General Rules 10(a)(i) candidates; but, so far as compassionate appointees are concerned, the inter se rank of the compassionate appointees and TNPSC candidates shall depend according to the date of their initial appointment, as has been held in paragraph 9 of the judgment in W.P.No.7730/87 and W.A.No.787/88. No costs. Consequently, connected Writ Petition Miscellaneous Petitions are closed."

5.From the order passed by the Honourable Division Bench of this Court above referred to, it is seen that the seniority of a person, who was appointed on the basis of November 1983 examination, has to be fixed on the basis of the date of substantive appointment and not on the basis of the date of examination. Similarly, the inter se rank of the compassionate appointees and Tamil Nadu Public Service Commission candidates shall depend according to the date of



their initial appointment. In this case, admittedly, the petitioner was appointed on 27.04.1987 and the third respondent was appointed only on 04.05.1987. Hence, as per the order of this Court by the Honourable Division Bench of this Court above referred to, the petitioner is senior to the third respondent and the third respondent's appointment will be considered only with effect from 04.05.1987 and not with reference to the date of written examination conducted by the Tamil Nadu Public Service Commission in 1983.

6.Hence, what follows from the admitted facts is that the petitioner is entitled to claim seniority above the third respondent. Unfortunately, the third respondent's name was included in the panel, that was prepared in 1993, where, the crucial date was 03.05.1993. When it is admitted in the impugned order that the petitioner was also fully qualified for promotion to the rank of Assistant before the crucial date, ie., 15.03.1990, his name ought to have been included for the panel year 1990-91 to 1993-1994. Despite this Court clarified the position in the batch of Writ Petitions in W.P.No.21654 of 2004 and batch, by order, dated 03.04.2006, the third respondent was given promotion on 03.05.1993.

7.The Director General of Police, by the impugned order, dated 06.05.2016, has stated that the petitioner has not reached the zone of consideration for the panel years 1990-1991 to 1993-1994. When the petitioner's junior, namely, the third respondent was promoted on 03.05.1993 by including his name in the panel prepared for 1992-1993, the respondents 1 and 2 are not justified in denying promotion to the petitioner with effect from 03.05.1993. Since the petitioner's promotion as Assistant for the year 1990-91 was wrongly denied, the petitioner is entitled to the relief as prayed for in the Writ Petition.

8.Accordingly, the Writ Petition is allowed and the impugned order passed by the first respondent, dated 14.08.2012 and the consequential order passed by the first respondent, dated 06.05.2016 are quashed. The first respondent is directed to refix the *inter-se* seniority in the "C" list of Junior Assistant fit for promotion to the Assistant for the panel year 1992-1993 above the third respondent and to consider his promotion by passing appropriate orders within the period of twelve weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-I)

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/ /2021

Sub Assistant Registrar(CS)



NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Director General of Police,
Mylapore,
Chennai -4.

2.The Deputy Inspector General of Police
Training, Police Training College,
Chennai - 83.

+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-28485[F] dated
08/09/2021)

+1 CC to M/s.GP (SR-28515[F] dated 08/09/2021)

W.P (MD) No.10638 of 2016
06.09.2016

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