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Order dated : 30.06.2022  
Contempt Petition No.494 of 2018

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED: 30.06.2022**

**CORAM**

**THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM**

**Contempt Petition No.494 of 2018**

B.Gopinath

... Petitioner

Vs.

1.Dr.Niranjan Mardi, I.A.S.,  
Secretary to Government,  
Home Police (3) Department,  
Secretariat, Fort St.George,  
Chennai - 600 009.

2.T.K.Rajendran, I.P.S.,  
The Director General of Police,  
Mylapore, Chennai - 600 004.

... Respondents

**PRAYER:**

Contempt Petition filed u/s.11 of the Contempt of Courts Act, 1971,  
praying to punish the respondents for their willful disobedience of the order  
passed by this Court in W.P.No.25829 of 2015 dated 20.08.2015.

For Petitioner : Mr.M.R.Uma Vijayan

For Respondents : Mr.P.Kumaresan,  
Additional Advocate General  
assisted by Mrs.S.Anitha,  
Special Government Pleader

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## **ORDER**

This Contempt Petition has been filed to punish the respondents for their willful disobedience of the order passed by this Court on 20.08.2015 in W.P.No.25829 of 2015.

2. The petitioner was recruited as Sub-Inspector of Police directly and now holding the post of Inspector of Police.

3. Learned counsel appearing on behalf of the petitioner vehemently contended that several orders have been flouted and the respondents have not only disrespected the orders of this Court but denied the right of seniority to the contempt petitioner.

4. In this context, learned counsel relied on the orders passed by this Court on 18.11.2009 passed in W.P.Nos.14442 and 22214 of 2009, wherein a direction was issued to include the name of the petitioner as Sub-Inspector of Police with effect from 01.03.1996 with due seniority. The said order was taken by way of an appeal before the Division Bench in W.A.Nos.1314 and 1359 of 2010 and the Division Bench passed an order on 05.09.2011 stating that "for the purpose of fixation of seniority of the respondent, the relevant date must be



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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 taken into consideration."

5. The petitioner has not initiated any further steps during the relevant point of time except approaching the authorities. Subsequently, the writ petition in W.P.No.25829 of 2015 was filed after a lapse of 3½ years with a prayer to direct the Government to implement the recommendations made by the third respondent therein viz., The Commissioner of Police, in proceedings dated 18.05.2012, in which this Court, under order dated 20.08.2015, has passed the following order:

"8. In the result, this Writ Petition is disposed of with a direction to the second respondent to act on the proposal of the third respondent with regard to the restoration of the seniority of the petitioner along with his batch mates of the year 1994-95 and pass orders within a period of two weeks from the date of receipt of a copy of this order and forward necessary proposal to the first respondent, who, on receipt of the same is directed to consider the same in the light of the orders passed by this Court in the above said writ petitions as well as in the writ appeals and pass orders within a period of four weeks thereafter and communicate the decision taken to the petitioner. This Court, hope and trust that at least now, the second respondent would act and obey the orders passed by this Court. No costs."

The said order is the subject matter of the present contempt petition.

6. The contention of the petitioner is that the order passed by this Court in the year 2009 has not been complied with despite the fact that the said order



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was confirmed by the Division Bench of this Court. Thereafter, another writ petition viz., W.P.No.25829 of 2015 was filed in the year 2015 and this Court passed an order on 20.08.2015 directing the authorities to take decision based on the orders passed in the writ petitions as well as in the writ appeals and pass appropriate orders. However, those factors were not considered by the respondents. They have not taken the date of selection as indicated in the orders passed in W.P.Nos.14442 and 22214 of 2009 and W.A.Nos.1314 and 1359 of 2010. Contrarily, the respondents have now fixed the seniority based on the date of appointment of the petitioner instead of selection of the petitioner as Sub-Inspector of Police.

7. The Government/first respondent considered the issue pursuant to the orders passed by this Court in W.P.No.25829 of 2015 and passed G.O.(Ms.) No.718, Home (Police-3) Department, dated 22.09.2017. The Government passed the following order:

"9. Accordingly, the Government order that the seniority of Thiru.B.Gopinath be fixed alongwith the 1994-1995 batch excess candidates (98) in the cadre of Sub-Inspector of Police as per rules, on the basis of the marks obtained by him in the final examination conducted by the Police Training College, at the appropriate place, below the 1000 candidates recruited for the year 1997-1998, as ordered in the Government Order first read above in respect of 1994-1995 batch excess candidates."



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8. Learned Additional Advocate General appearing on behalf of the State reiterated that the seniority of the petitioner was fixed in accordance with the rules in force. The petitioner had joined in the Department as Sub-Inspector of Police only on 22.05.2000 and he approached the Tamil Nadu Administrative Tribunal during the year 1998. Though the petitioner participated in the selection process for the 1994-1995 batch, he was not selected at the relevant point of time since he was found not eligible for selection. He filed an original application in the year 1998 and subsequently, he was appointed on 22.05.2000. Thus, the date of appointment, which is the date of commencement of probation, must be taken into consideration for the purpose of fixation of seniority and the said date was also taken into consideration and accordingly, the seniority of the petitioner was fixed and thus, the respondents have not committed any contempt of Court.

9. In this context, learned Additional Advocate General referred to Rule 24 of the Tamil Nadu Special Police Subordinate Service Rules, 1978 and as per Rule 24(a), the date of commencement of probation shall be the date on which a person joins duty irrespective of his seniority. Thus, the date of commencement of probation is to be taken into consideration.



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10. In the present case, though the petitioner participated in the selection process of the year 1994, he was not selected. Thereafter, he approached the Tamil Nadu Administrative Tribunal and appointed on 22.05.2000 and joined service and therefore, his seniority was fixed as per the rules by taking into consideration the training period as well as the appointment. This being the factum, this Court does not find any infirmity in the order passed by the first respondent fixing seniority of the petitioner.

11. Regarding the willful disobedience of the orders passed by this Court, let us consider the order passed by this Court in W.P.No.25829 of 2015, which is the subject matter of the contempt petition. This Court directed the authorities to consider the earlier orders of the Court i.e. orders in writ petitions and judgments in writ appeals and also the proposal submitted by the department and thereafter, pass orders within a period of four weeks. Thus, liberty was granted to the department to consider all the material aspects and take a decision and communicate the decision to the petitioner. Accordingly, the respondents have considered the facts and circumstances with reference to the rules applicable for fixation of seniority and accordingly, passed the order



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in G.O.(Ms.) No.718, Home (Police-3) Department, dated 22.09.2017. This being the factum, this Court does not find any willful disobedience of the orders passed by this Court.

Accordingly, the contempt petition stands dismissed.

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Index : Yes / No  
Speaking / Non Speaking order  
gm

**S.M.SUBRAMANIAM., J**

gm



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