



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.02.2022

CORAM

THE HONOURABLE MRS.JUSTICE **S.SRIMATHY**

W.P. (MD)No.17828 of 2014

and

M.P. (MD)Nos.2 and 3 of 2014

WEB COPY

- 1.S.Saravanan
- 2.V.Veeranan
- 3.R.Joseph Antony
- 4.P.Umashanmuganathan
- 5.C.Amalraj
- 6.R.Sadagopa Raj
- 7.M.Jesudoss

... Petitioners

vs.

- 1.The Additional Director General of Police/
Inspector General of Prisons,
Tamilnadu, Chennai-8.

- 2.The Chairman, Promotion Board and Deputy
Inspector General of Prisons,
Madurai Range, Madurai.

- 3.R.Kumar,
Grade I Warder,
Central Prison, Cuddalore.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records on the files of the 1st respondent pertaining to its order bearing No.36804/ES3/2014, dated 03.07.2014 and the consequential order bearing No. 36804/ES2/2014-2, dated 20.10.2014 and to quash the same and consequently direct the respondent to consider objections of the petitioners, dated 18.09.2014 and 07.10.2014 and to prepare a fresh panel in accordance with law within a time frame that may be stipulated by this Court.

For Petitioners	: Mr.S.C.Herold Singh
For R1 and R2	: Mr.P.Thambidurai
	Government Advocate (Civil side)
For R3	: No appearance

O R D E R

This Writ Petition is filed for issuance of a Writ of Certiorarified Mandamus, to quash the order of the 1st respondent in bearing No. 36804 / ES3 / 2014 dated 03.07.2014 and the consequential order bearing No. 36804/ES2/2014-2, dated 20.10.2014 and consequently direct the respondent to consider objections of the



petitioners, dated 18.09.2014 and 07.10.2014 and to prepare a fresh panel in accordance with law within a time frame that may be stipulated by this Court.

2.This Writ petition is filed impleading private respondent, namely, R. Kumar. The contention of the petitioners is that the petitioners are placed below the said Kumar. The said petitioners were recruited by Tamil Nadu Uniform Service Recruitment Board and appointed as Grade II Warder and were allotted to different departments.

3.The contention of the petitioners is that all juniors ought to be placed below the petitioners but, in this particular case, the respondents have placed the third respondent above the petitioners. Aggrieved over the same, the present Writ Petition is filed.

4.The respondents have filed a counter affidavit stating that there were punishments against the petitioners. The respondents have stated that the Chief Head Warders for the year 2013-2014 approved through proceedings, dated 03.07.2014 contains 156 members according to the vacancy position. The petitioners are far juniors than the third respondent. According to the seniority list of the Grade II Warders approved by the first respondent, vide order, dated 10.10.2012, the petitioners stand in Serial No.202 onwards, whereas the said Kumar is included in the Grade I Warder for the year 2012-2013 in the Serial No.1. According to Rule 35(a) of General Rules for the Tamil Nadu State and Subordinate Service, the seniority of the person in service, class or category or grade shall be determined based on the rank obtained by the individuals in the list of approved candidates drawn up by the Commission or other appointing authority as the case may be, subject to the rule of reservation, where it applies. Where the persons appointed by more than one method of recruitment are deemed to have been appointed to the service on the same date, their *inter se* seniority shall be with reference to their age.

5.The respondents stated that the petitioners were appointed as Grade II Warders by direct recruitment through Tamil Nadu Uniform Service Recruitment Board. A seniority was fixed by the Additional Director General of Police on the basis of merit and communal rotation list furnished by the Tamil Nadu Uniform Service Recruitment Board and by the question of fixing seniority with reference to the date of appointment and date of fixing seniority according to the date of joining by the petitioner would lead to violation of rules.

6.As far as the post of direct recruitment is concerned, list of the petitioners are far juniors to the incumbents of Chief Head Warder. The representations of the petitioners were considered by the first respondent and informed the fact of rejection to the



that Rule does not permit to revise their seniority in accordance with the date of appointment and age. Therefore, the claim of the petitioners cannot be considered and deserves to be dismissed.

7. Heard Mr.S.C.Herold Singh, learned Counsel appearing for the petitioners and Mr.P.Thambidurai, learned Government Advocate appearing for first and second respondents.

8. The contention of the petitioners is that the seniority list ought to be drawn as date of appointment. The contention of the respondents is that as per Rule 35(a), the list submitted by the recruiting agency and it was selected based on communal rotation ought to be taken into account. The issue of preparing the "seniority list" is dealt with in ***Bimlesh Talwar Vs State of Haryana case reported in (2003) 5 SCC 604***. The Hon'ble Supreme Court has held that the seniority list based on roaster system is not valid and the seniority list ought to be based on marks obtained by the individuals alone. In other words the roaster system ought to be followed for appointment purpose and marks system ought to be followed for the purpose of fixing seniority. It has been stated that the list submitted by the recruiting agency cannot be followed. Once the list is received after following communal rotation, the appointing authority ought to redraw the list based on merits.

9. Therefore, this Court is directing the first respondent to take into account the judgment rendered in ***Bimlesh Talwar case*** and are directed to issue notice to the petitioners as well as the third respondent. After conducting detailed enquiry, the first respondent shall draw the list, and thereafter, grant promotion. The above exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order.

10. With the above direction, the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

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/ /2022

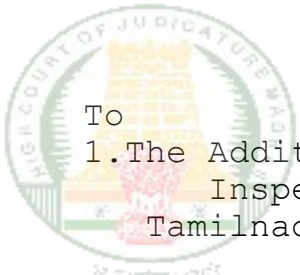
Sub Assistant Registrar(CS)

Tmg

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.

<https://hcservices.ecourts.gov.in/hcservices/>



To

1.The Additional Director General of Police/
Inspector General of Prisons,
Tamilnadu, Chennai-8.

2.The Chairman, Promotion Board and Deputy
Inspector General of Prisons,
Madurai Range, Madurai.

+1 CC to M/s.S.C.HEROLD SINGH, Advocate (SR-6947[F] dated
18/02/2022)

+1 CC to M/s.SPL GP (SR-7143[F] dated 18/02/2022)

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