



W.A.(MD) No.883 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.06.2023

CORAM:

**THE HON'BLE MR.SANJAY V. GANGAPURWALA,
CHIEF JUSTICE**

and

THE HON'BLE MR.JUSTICE R.SUBRAMANIAN

**W.A.(MD) No.883 of 2023
and CMP(MD) No.7059 of 2023**

1.The Director General of Police,
Mylapore
Chennai 4

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

... Appellants

-VS-

1.K.Perumalswamy

2.S.Santhanaraman

... Respondents

PRAYER: Appeal filed under Clause 15 of Letters Patent against the order dated 06.09.2021 passed in WP(MD) No.10638 of 2016.

For Appellants : Mr.S.P.Maharajan
Special Government Pleader



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WEB COPY For Respondent : M/s.Ajmal Associates for R1

JUDGMENT

**[Judgment of the Court was delivered by
The Hon'ble The CHIEF JUSTICE]**

The order passed by the learned Single Judge is assailed.

2.Original writ petitioner was appointed as a Junior Assistant on 27.04.1987 on compassionate ground. He has completed his probation successfully and his services were regularized with effect from 27.04.1987. Petitioner passed all the departmental examinations and became fully qualified to the post of Assistant on the crucial date, viz., 15.03.1990 for the 1990-91 panel. These are the undisputed facts.

3.On or about 06.05.2016, the order was passed by the department that the petitioner had not reached the zone of consideration for the panel year 1990-91 to 1993-94. The third respondent in the writ petition was appointed on 04.05.1987 pursuant to the recruitment notification originally issued in 1983. The third



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respondent was promoted by including his name in the panel prepared for 1992-93. The original writ petitioner claimed that the third respondent junior to the petitioner being promoted on 03.05.1993. The petitioner is entitled to get his name included above the third respondent even in the promotion panel that was given effect subsequently.

4. According to the learned Special Government Pleader, the third respondent in the writ petition was appointed through the Tamil Nadu Public Service Commission and the seniority list is to be drawn in the post of Assistant in Tamil Nadu Ministerial Subordinate Service, Police Department, by placing the Tamil Nadu Public Service Commission 1983 batch candidates above the persons, who are appointed on compassionate ground by reckoning the date of service as November 1983.

5. According to the learned Special Government Pleader, the learned Single Judge has erred in passing the impugned order. We have heard the learned counsel for the original writ petitioner.



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6. It is not disputed that the original writ petitioner was appointed prior in point of time to respondent No.3. The seniority cannot be counted from the date prior to the appointment of a person. A deemed date cannot be given for seniority and for promotion, for the period the candidate was not born in the service.

7. As it was not disputed that the original writ petitioner also passed all the departmental examinations and was appointed prior in point of time and the seniority cannot be counted from the year 1983, though appointed in May, 1987, the learned Judge has not committed any error, while passing the impugned order. The appeal as such is dismissed. However, there is no order as to costs. consequently connected Miscellaneous Petition is closed.

[S.V.G., CJ.]

[R.S.M, J.]

23.06.2023

Index : Yes / No
Neutral Citation : Yes / No

RR



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R.SUBRAMANIAN, J.

RR

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