



WEB COPY

W.P.No.13033 of 2020 etc. batch

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 15.12.2023

DELIVERED ON : 14.03.2024

CORAM :

THE HON'BLE MS.JUSTICE R.N.MANJULA

**W.P.Nos.13033, 17937 of 2020 and 5677 of 2021 &
W.P.Nos.10747, 12783, 12966 and 18507 of 2021**

and

**W.M.P.Nos.13768, 13769, 13770, 13771, 11380,
11382 11383, 11386, 13580 to 13582, 13584, 19738,
11379 and 19740 of 2021; 16148, 16150, 16152, 16154,
22235, 22236, 22239 of 2020; 6288, 6290, 6291 and
6294 of 2021; 9759 and 9760 of 2022**

W.P.Nos.13033, 17937 of 2020 and 5677/2021:

- 1.J.Kirubanathan
- 2.P.Perumal
- 3.G.Rajendran
- 4.R.Pandiyan
- 5.S.Ashok Kumar
- 6.N.Rajkumaran
- 7.R.Velumurugan
- 8.R.Shankar
- 9.A.Sivkaumar
- 10.M.Selvaraju
- 11.R.Senthilkumar
- 12.S.Ramesh
- 13.C.Vinojayakumar



W.P.No.13033 of 2020 etc. batch

WEB COM

- 14.K.Karunakaran
- 15.N.Sriraman
- 16.J.Vijay Muthukumar
- 17.V.Baskaran
- 18.K.Sethu
- 19.U.U.Senthilmathan
- 20.Balasubramanian
- 21.G.Venkaetesan
- 22.K.Sugumaran
- 23.K.Tirunavukarasu
- 24.E.Swaminathan
- 25.N.Senthilkumar

.. Petitioners in
W.P.No.13033 of 2020

- 1.N.K.Arunmugam
- 2.R.Gunaseelan
- 3.S.Raja
- 4.P.Jeyakumar
- 5.G.Rajeshkannan
- 6.S.Ramachandran
- 7.M.Kavurajan
- 8.S.Latha Kumari
- 9.P.Sivakumar
- 10.D.Thangavel

.. Petitioners in
W.P.No.17937 of 2020

- 1.M.Divakar
- 2.S. Selvam
- 3.P.Balakumarasamy
- 4.S.Latha
- 5.K.Prabhakaran
- 6.R. Anandan
- 7.P. Mageswaran



W.P.No.13033 of 2020 etc. batch

8.S. Ramachandran

.. Petitioners in
W.P.No.5677 of 2021

Vs.

1.The State of TamilNadu
Rep. by Additional Chief Secretary to Government
Home (Police III) Department,
Fort St George,
Chennai 09.

2.The Director General of Police,
Office of DGP,
Post Box No.601,
Dr.Radhakrishnan Salai,
Mylapore, Chennai-600 004.

.. Respondents in
W.P.Nos.13033, 17937 of
2020 and 5677 of 2021

Prayer in W.P.Nos.13033, 17937 of 2020 and 5677 of 2021: Writ Petitions filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records relating to order of the 1st Respondent in G.O (Ms) No.249 Home Police-III department dated 6.7.2020 and quash the same and consequently direct the respondent to fix the scale of pay of petitioners as per FR 22-B by fixing initial pay in the time scale int he post of Sub Inspector at the stage next above the pay notionally arrived at by increasing their pay in respect of last drawn salary in the post Head constable by one increment at the stage at which such pay had accrued and grant all



W.P.No.13033 of 2020 etc. batch

the arrears and other benefits including counting of the past service for the purpose of pension gratuity and all other attendant benefits from the date of appointment as Sub Inspector.

W.P.Nos.10747, 12783, 12966 and 18507 of 2021:

- 1.R.Pandiyan
- 2.N.Rajkumaran
- 3.K.Sugumaran
- 4.P.Balakumaraswamy
- 5.Kavrajan

.. Petitioners in
WP.No.10747 of 2021

- 1.S.Ramachandran
- 2.K.Magesh Kumar
- 3.S.Suresh
- 4.S.Ashok Kumar
- 5.N.K.Arumugam
- 6.C.Vino Jeyakumar
- 7.R.Gunaseelan
- 8.G.Venkatesan
- 9.R.Velmurugan
- 10.S.Kumar
- 11.S.Raja
- 12.M.Selvaraju
- 13.S.Selvam
- 14.G.Rajendran
- 15.J.Kirubananthan
- 16.P.Sivakumar
- 17.G.Janarthanan
- 18.P.Perumal
- 19.K.Prabhakaran
- 20.M.Divakar
- 21.R.Anandan



W.P.No.13033 of 2020 etc. batch

WEB COPY

22.P.Mageswaran
23.S.Ramachandran
24.P.Jeyakumar

.. Petitioners in
WP.No.12783 of 2021

1.USenthilnathan
2.V.Baskaran
3.M.G.Raja Robert
4.R.Sankar
5.S.Sivaraja
6.K.Janakan
7.K.Thirunavukrasu
8.S.Ramesh
9.S.Balasubramaniam
10.R.Senthilkumar
11.N.Senthil Kumar
12.G.Rajesh Kannan
13.D.Thangavel
14.N.Sriraman

.. Petitioners in
WP.No.12966 of 2021

1.S.Ponraja
2.G.Soorian
3.P.Murugan

.. Petitioners in
WP.No.18507 of 2021

Vs.

The State of TamilNadu
Rep. by Additional Chief Secretary to Government
Home (Police III) Department,
Fort St George,



W.P.No.13033 of 2020 etc. batch

Chennai 600 009.

The Director General of Police,
Office of DGP,
Post Box No.601,
Dr.Radhakrishnan Salai,
Mylapore, Chennai-600 009.

.. Respondent Nos.1
and 2 in all four WPs

C.Sumathi
M.R.Rajesh
T.Kirubanithi
R.Subbian
G.Saiganesh

.. Respondent Nos.3 to
7 in W.P.No.10747 of 2021

[R3 to R7 impleaded vide order dt.29.09.2022
made in WMP.No.18440/2021]

B.Arul Murugan,
Inspector of Police (Special Branch),
Office of Superintendent of Police,
Thiruvallur District.

P.Arul Jothi,
Inspector of Police,
Vigilance and Anti Corruption Department,
Trichy.

MR.T.Vinoth Kumar,
Inspector of Police, CCB,
Chennai City Police,
Commissioner of Police Building,
Vepery, Chennai.

R.Hariharasugan,



W.P.No.13033 of 2020 etc. batch

WEB COURT

Sub Inspector of Police,
Police Recruitment School,
Mylam, Villupuam District.

K.Vignesh Prabhu,
Sub-inspector of Police, Q Branch CID,
Theni District.

.. Respondent Nos.3 to
7 in W.P.No.12783 of 2021

C.Sumathi
9.M.R.Rajesh
10.T.Kirubanithi
11.R.Subbiah
12.G.Saiganesh

.. Respondent Nos.8 to
12 in W.P.No.12783 of 2021

[R3 to R7 impleaded vide order dated 29.7.2021
made in W.M.P.No.14761 of 2021]
[R8 to R12 impleaded vide order dated 26.11.2021
made in W.M.P.No.25631 of 2021]

B.Arul Muruan
P.Arul Jothi
T.Vinoth Kumar
R.Hariharasugan
K.Vignesh Prabhu
C.Sumathi
M.R.Rajesh
T.Kirubanithi
R.Subbiah
G.Saiganesh
H.Sarvananan
V.Rajaganes
G.Sankara Sbramanian
G.Mahalakshmi
M.M.Selvaragavan



W.P.No.13033 of 2020 etc. batch

WEB COPY

M.Ravivarman
R.Vimal
M.Ramesh
P.Natarjan
M.Velumani
S.Ramya
P.Vetrichelvi
P.Devi
R.Arivalagan
K.Muthulakshmi
B.Praveen Kumar
S.Ganesan
S.Nazeer
N.Sudha
P.Jayalakshmi
K.Jayandra Sarawathi
A.Manimanogaran
K.Santhi
M.Mohammed Buhari
K.Saravanan

.. Respondent Nos.3 to 37 in
W.P.No.12966 of 2021

R3 to R7 impleaded vide order dated 29.7.2021
made in W.M.P.No.14761 of 2021]
R8 to R12 impleaded vide order dated 26.11.2021
made in W.M.P.No.18448 of 2021]
[R13 to R37 impleaded vide order dated 7.12.2023
made in WMP No.24102/2022]

Prayer in WP.No.10747, 12783, 12966 & 18507 of 2021: Writ
Petitions filed under Article 226 of the Constitution of India, to issue a
Writ of Certiorarified Mandamus calling for the records of the order
issued by the 1st respondent in G.O.(MS) No.760 Home (Police-3)



W.P.No.13033 of 2020 etc. batch

WEB COPY

Department dated 16.10.2017 the portion regarding fixation of seniority in Para 16 of appointment order of petitioners and the consequential order of 2nd respondent herein in Rc.No.961309/Rect.11(2)/2020 dated 29.03.2021 and quash the same and consequentially direct the respondents to re-fix the seniority recruited of petitioners along with their batch mates Sub-Inspectors in 1997-98 batch and place them in appropriate place based on the marks obtained by petitioners in Police Training College as per rule 25(a) of Special Rules Tamil Nadu Police Subordinate Service irrespective of the date of reporting to duty by including the petitioners as per G.O.Ms.No.556 Home (Police III) Department dated 31.12.2020 and grant all consequential service, monetary and other attendant benefits flowing there from.

For the Petitioners in : Mr.V.Prakash
W.P.Nos.12966 of 2021 Senior Counsel
for Mr.M.Habeeb Rahman

For the Petitioners in : Mr.Vijay Narayan
W.P.No.18507 of 2021 Senior Counsel
for Mr.P.Arumugavel

For the Petitioners in : Mr.P.Wilson
W.P.Nos.13033, 17937 Senior Counsel
of 2020; 5677 and for M/s.M.Habeeb Rahman
10747 of 2021 and



W.P.No.13033 of 2020 etc. batch

WEB COPY

for the petitioners 2 to
4 in W.P.No.12783 of
2021

For the 1st Petitioner in : Mr.G.Sankaran
W.P.No.12783 of 2021 Senior Counsel
for Mr.S.Neduchezhian

For the Respondents : Mr.P.Kumaresan
Addl. Advocate-General
assisted by
Mr.G.Nanmaran
Spl. Government Pleader &
Mr.J.Daniel
Government Advocate
for respondents 1 and 2 in
W.P.Nos.13033 of 2020;
12966 of 2021; 17937 of
2020; 18507 of 2021; 10747
of 2021 and 5677 of 2021
and for respondents 1 to 7
in W.P.No.12783 of 2021

: Mr.M.Devaraj
for respondents 3 to 7
in W.P.No.10747 of 2021;
respondents 8 to 12 in
W.P.No.12783 of 2021;
respondents 8 to 12 in
W.P.No.12966 of 2021

: Mr.V.Lakshmi Narayanan



W.P.No.13033 of 2020 etc. batch

for M/s.K.M.Vijayan Associates
for respondents 3 to 7, 13 to
37 in W.P.No.12966 of 2021

COMMON ORDER

Heard Mr.V.Prakash, Mr.N.Vijay Narayan, Mr.P.Wilson and Mr.G.Sankaran, learned Senior Counsels for the petitioners; Mr.P.Kumaresan, learned Additional Advocate-General, assisted by Mr.G.Nanmaran, learned Special Government Pleader and Mr.J.David, learned Government Advocate for respondent State; Mr.M.Devaraj and V.Lakshmi Narayanan for M/s.K.M.Vijayan Associates, learned counsel for the private respondents.

2. These are another set of litigations filed by the petitioners, who after a long battle got their recruitment to the post of Sub-Inspector of Police.

3. A short prelude about the origin, advent and the claim made by the petitioners:



W.P.No.13033 of 2020 etc. batch

WEB COPY

3.1. The Tamil Nadu Uniformed Services Recruitment Board [for short, "TNUSRB"] invited applications for selection to the post of Sub-Inspectors of Police by way of direct recruitment from open market and from departmental candidates for the year 1997-1998. The selection was made on range-wise basis instead of State-wise and that had caused several Original Applications be filed before the Tamil Nadu Administrative Tribunal in O.A.No.9825 of 1998 etc. batch, as the candidates who secured low marks got selected in view of range-wise distribution of selection and the candidates who secured high marks were deprived of the opportunity to get selected.

3.2. The Tamil Nadu Administrative Tribunal has passed an order directing the State Government to give appointment to all the applicants who had secured higher marks than the other candidates who appeared from other zones. However, the recruitment was not set aside by taking into consideration of the fact that the selectees have already been appointed and they are in service.



W.P.No.13033 of 2020 etc. batch

WEB COPY

3.3. Challenging the order of the Tamil Nadu Administrative Tribunal, writ petitions, being W.P.No.17639 of 2001 and batch, have been filed. A Division Bench, which has dealt with the writ petitions, has taken into consideration of several circumstances that occurred subsequent to the selection. Even though the recruitment was to fill-up 1000 posts of Sub-Inspector of Police, the ultimate selection was for 918 candidates and final orders of appointment were issued to 881 candidates in respect of the selection for the year 1997-1998. Even though the Division Bench did not set aside the selection, it had declared that the selection was made on zone-wise basis. In view of the delay caused, the Division Bench did not set aside the selection. Some of the candidates were allowed to participate in the interview process. The candidates, who came out successful in the interview, were directed to be placed on probation and sent for police training followed by appointment and regularisation. The candidates, who have participated in the interview and came out successfully but did not get appointment in view of zone-wise distribution, were also directed to be



W.P.No.13033 of 2020 etc. batch

WEB.COM

sent to police training followed by appointment and regularisation.

Some of the candidates who have filed Original Applications/Writ Petitions belatedly were also found to be ineligible on the ground of delay and laches on their part.

3.4. The writ petitions filed subsequent to the aforesaid order were also dismissed by the learned Single Judges of this Court.

3.5. Affected by the orders denying the relief, some of the candidates have filed Civil Appeals, in Civil Appeal (C) No.7667 of 2014 [SLP (C) No.21828 of 2006] etc. batch before the Apex Court. The Apex Court had observed that the delay alone cannot be the reason for denying the relief to the candidates. The Apex Court further observed that the State Government ought to have discharged its responsibility of giving benefit of appointment to all those candidates who had secured the cut-off marks even if they did not file any petition/application before the Tribunal or the High Court. Eleven appellants in the batch of cases were ordered to be accommodated



W.P.No.13033 of 2020 etc. batch

WEB COPY

against the unfilled vacancies. So far as conferment of seniority is concerned, the appellants before the Supreme Court have expressed their no objection to place them at the bottom of the regularly appointed Sub-Inspectors of Police, as on the date of the said order and, thus, the matters before the Apex Court were disposed of. However, this arrangement is considered to be an one-time measure. The said judgment of the Apex Court is familiarized as *K.K.Senthilkumar and others v. State of Tamil Nadu and others* [Order dated 7.8.2014 in Civil Appeal No.7667 of 2014].

3.6. Even thereafter, various writ petitions have been filed before the Principal Bench and Madurai Bench of the Madras High Court for getting the benefit of the dictum laid down in *K.K.Senthilkumar's* case, supra. The judgment rendered in *K.K.Senthilkumar's* case, supra, is claimed by the later petitioners as a *right-in-rem* and that it should be extended to all those who are similarly placed. However, the learned Single Judges of this Court have not chosen to grant the benefit of *K.K.Senthilkumar's* case,



W.P.No.13033 of 2020 etc. batch

WEB COPY

supra, to all persons who have filed the writ petitions. As against some of the petitioners, the writ petitions got dismissed. Aggrieved candidates have filed writ appeals, being W.A.No.1350 of 2017 etc. batch.

3.7. The respondent-Government issued a Government Order in G.O. (Ms.) No.760, Home (Police.3) Department, dated 16.10.2017 pursuant to the order of the High Court in W.P.No.26325 of 2015 and batch cases to appoint 88 candidates. While appointing them, the seniority of those appointees was ordered to be placed below the directly recruited Sub-Inspectors of Police of the year 2015 and further the 88 vacancies have been deducted from the estimated vacancies in the post of Sub-Inspectors of Police for the year 2015-2017. In the order of the Division Bench itself, it has been made clear that the selection would be given effect from the date of issuance of the appointment order. However, it is observed that the seniority list has to be prepared on the basis of the date of reporting and they are not entitled to any other service benefits over the others who were already



W.P.No.13033 of 2020 etc. batch

WEB CO selected.

3.8. Thereafter, a Government Order in G.O. (Ms.) No.556, Home (Police.III) Department, dated 23.12.2020 has been issued for clubbing the candidates sent for training in different batches in respect of the recruitment of the year 1997-1998 as one batch, except for the candidates for whom any specific direction for fixation of seniority has already been given. In so far as the candidates appointed as fresh entrants during year 2015 and 2018 are concerned, the Sub-Inspectors of Police are treated as one unit for the purpose of fixation of seniority. In the said Government Order, it has been observed that as per the proviso to Rule 25(a) of the Special rules for the Tamil Nadu Police Subordinate Services, the seniority of the directly recruited Sub-Inspectors of Police (Category-II of Class-I) shall be fixed on the basis of the marks obtained by them in the police training college. A fresh seniority list was directed to be prepared in a combined manner by clubbing the candidates sent for police training in two different batches as one batch assigning the revised seniority numbers except for the



W.P.No.13033 of 2020 etc. batch

WEB COPY

candidates for whom any specific directions have been given regarding fixation of seniority as per the directions of the Courts and as per the rules in force, subject to the outcome of the pending litigations before the Courts and after inviting objections from all the candidates recruited as Sub-Inspectors of Police during the year 1997-1998.

3.9. Now, the petitioners in W.P.Nos.10747, 12783, 12966 and 18507 of 2021 have challenged paragraph (16) of the Government Order dated 16.10.2017, which refers about their seniority and wherein it is stated that the petitioners shall be placed below the directly recruited Sub-Inspectors of Police of the year 2015. It would be worth to quote paragraph (16) of the G.O. (Ms.) No.760, Home (Police.3) Department, dated 16.10.2017 hereunder:

"16. Accordingly, the Government direct the Director General of Police and the Tamil Nadu Uniformed Services Recruitment Board to take necessary action to comply with the directions of the Hon'ble High Court of Madras in its order 1st read above in respect of the writ petitioners falling under Category I and Category II specified in the said order and to appoint the said writ



W.P.No.13033 of 2020 etc. batch

WEB COPY

petitioners (88) as Sub-Inspector of Police, as of today. As a fresh entrant, subject to their fulfillment of the conditions laid down in the said High Court Order, such as securing more than the final lowest cut-off marks, medically fit and clearance from the police verification etc. The Government also direct that these writ petitioners shall be placed below the directly recruited Sub-Inspectors of Police of the year 2015, as directed by the Hon'ble High Court of Madras. The Government direct that the 88 vacancies to be filled in, as proposed above, be deducted from the estimate of vacancies in the post of Sub-Inspectors of Police, by direct recruitment, to be arrived at for the year 2015-2017."

3.10. The petitioners in W.P.Nos.10747, 12783, 12966 and 18507 of 2021 have claimed that they are not parties to *K.K.Senthilkumar's case, supra*, in which the seniority has been agreed by the parties therein to be kept below the directly recruited Sub-Inspectors of Police of the year 2015.

3.11. While modifying the order of the Tribunal, the High Court



W.P.No.13033 of 2020 etc. batch

in W.P.No.17639 of 2001 etc. batch has observed as under:

"73.

(i) to (iv)

(v) *While modifying the order of the Tribunal, we hold that from amongst the applicants who are the contesting respondents both Men and Women covered by W.P.Nos.17639 to 17660 of 2021, 17822 to 17827, 17830, 17899 to 17903 and 18349 to 18356 of 2003, such of those contesting respondents who have secured the lowest cut off marks in the category, namely OC, BC, MBC, SC and ST after the interview, should be directed to undergo medical test and after following the usual formality of police verification about their antecedents, and in the event of those contesting respondents ultimately, coming out successful, should be placed on probation and sent for police training which should be followed by their appointment and regularization as per the prescribed regulations."*

4. Learned Senior Counsels for the petitioners have claimed that the above order of the High Court should be read in terms of Rule 25



W.P.No.13033 of 2020 etc. batch

of the Special rules for the Tamil Nadu Police Subordinate Services.

For proper appreciation, Rule 25 is quoted hereunder:

"25. Seniority

(a) The seniority of a person in any class or category of the service shall, unless he has been reduced to a lower rank 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, unless he has been appointed temporarily under sub rule (d) of Rule 10 or sub rule (b) of Rule 15, as the case may be.

Provided that in the case of Sub Inspectors (recruited direct) Category 2 of Class I) the seniority shall be fixed on the basis of the marks obtained by them in the final examination in the Police Training College, Chennai.

Provided further that in respect of direct recruitment made in the years 1976 and 1979 to the posts of Sub



W.P.No.13033 of 2020 etc. batch

WEB COPY

Inspectors of Police Inspectors (Armed Reserve) by the Tamil Nadu Public Service Commission, the seniority shall be fixed with reference to the rank assigned by the Tamil Nadu Public Service Commission in the list of selected candidates communicated by it.

Provided further that in the case of Sub Inspectors (Armed Reserve) (Category 4 of Class I), the seniority shall be fixed on the completion of training with the Special Armed Police instead of at the time of section, but such seniority shall be liable to revision by the Deputy Inspector General of Police concerned, if he considered it necessary, before the completion of probation.

Provided also that the seniority of the Sub Inspectors of Police directly recruited from the departmental quota shall be fixed above the direct recruits selected from open quota in the same year.

Provided also that the required number of Head Constables fit for promotion to the post of Sub Inspectors shall be included in the order of merit on the basis of the result of the examination specified in



W.P.No.13033 of 2020 etc. batch

WEB COPY

clause (ii) of sub rule (e) of Rule 18 and re-arranged in the order of seniority in the post of Head Constable.

This sub rule shall apply to any member of the service other than Sub Inspectors appointed on or after 1st January, 1962. It shall also apply to Sub Inspectors appointed on or after 25.8.1965.

(b) The transfer of a person from one class or category of the services to another class or category carrying the same pay or scale of pay shall not be treated as first appointment to the latter for purpose of seniority, and the seniority of a person so transferred shall be determined with reference to the rank in the 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.

(c) Where a member of the service in any class or category is reduced to a lower class or 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 class or category next below



WEB COPY

any specified member thereof.

(d) The seniority of any person in a service or post of the merged territory of Pudukottai who is absorbed in a post in his service shall be determined as follows:

(i) If he is absorbed in a post similar to which he was formerly holding in the service of he merged territory of Pudukottai, his seniority shall be determined by the date from which he was holding the former post continuously.

(ii) If he is absorbed in a post of a higher cadre carrying a higher scale of pay than that which he was formerly holding in the service of the merged territory of Pudukottai, his seniority shall be determined by the date on which he joined the post in this service.

(iii) If he is absorbed in a pot other than those specified in clauses (i) and (ii), which do not improve his cadre and scale of pay in the service of the merged territory of Pudukottai his seniority shall be determined on the basis of merit.

(e) The seniority of qualified Special Armed Policemen appointed by transfer as Constables in this service shall



W.P.No.13033 of 2020 etc. batch

WEB COPY

be determined by the date of their first appointment in this service for the purpose of confirmation in vacancies in this service.

(f) The inter-se-seniority between the accelerated promotees and the general promotees in the promoted category shall be in the order of seniority in the feeder category (lower category), and the accelerated promotion will not confer any consequential seniority on such accelerated promotees either in the feeder category or in the promoted category.”

5. It is claimed that the order passed in the said writ petitions observing regularization of the petitioners' appointment as per the prescribed regulations has not been challenged and it has attained finality and, therefore, the impugned paragraph (16) of G.O. (Ms.) No.760, Home Court (Police.3) Department, dated 16.10.2017 should be set aside along with the consequential order of the respondent/ Director General of Police dated 29.03.2021 and the seniority of the petitioners should be directed to be re-fixed by placing the petitioners along with their batch mates of the 1997-1998 batch and they should



W.P.No.13033 of 2020 etc. batch

WEB COPY

be placed in an appropriate post on the basis of the marks obtained by them in the police training college as per Rule 25(a) of the Special rules for Tamil Nadu Police Subordinate Services and the G.O. (Ms.) No.566, Home (Police.III), dated 23.12.2020, with all consequential service, monetary and attendant benefits.

6. G.O.Ms.No.556, Home (Police-III), dated 23.12.2020 is extracted hereunder for better appreciation:

"ABSTRACT

PUBLIC SERVICES – POLICE DEPARTMENT – REFIXATION OF SENIORITY OF SUB-INSPECTORS OF POLICE RECRUITED DURING THE year 1997-98 – ORDERS ISSUED.

Home Police (III) Department

G.O.Ms.No.556

Dated 23.12.2020

1.G.O. (Ms).No.1317, Home (Police-3) Department dated 08.06.1997

2.G.O. (Ms).No.1421, Home (Police-3) Department dated 24.09.1997

3.G.O. (Ms).No.342, Home (Police-3) Department dated 08.06.1997

4.From the Director General of Police/Head of Police Force, Chennai-4 Letter R.C No.284045/Rect.II(1)/2011, dated 20.06.2013



WEB COPY



W.P.No.13033 of 2020 etc. batch

5.G.O. (Ms).No.93, Home (Police-3) Department dated 06.02.2015

6.G.O. (Ms).No.684, Home (Police-3) Department dated 03.10.2015

7.G.O. (Ms).875, Home (Police-3) Department dated 02.12.2016

8.G.O. (Ms).No.904, Home (Police-3) Department dated 10.12.2016

9.G.O. (Ms).No.116, Home (Police-3) Department dated 06.02.2017

10.From the Director General of Police/Head of Police Force, Chennai-4 letter Rc.No.284045/Rect.II(1)/2011, date 01.02.2019.

11.Opinion of Advocate General of Tamil Nadu in OPN.135/AGVN/2019 dated 16.09.2019.

12.From the Director General of Police/Head of Police Force, Chennai-04, Letter R.C No.284045/Rect.II(1)/2011 dated 10.10.2019.

13.Orders of the Hon'ble High Court of Madras dated 08.04.2019 in W.P.No.21698 of 2018 and W.M.P.No.25452 and 25453 of 2018 filed by D.Kavitha

14.G.O. (Ms).No.373, Home (Police-3) Department dated 03.10.2020.

ORDER

In the Government Order first read above, the Tamil Nadu Uniformed Service Recruitment Board was directed to recruit 1000 Sub-Inspectors of Police through direct recruitment. Subsequently in the Government order second read above order were issued to recruit the above said Sub-Inspectors of Police on range wise selection basis. In the Government order third read above, orders were issued to train the selected candidates in two batches. Accordingly, the selection for the post of Sub-Inspector of Police for the yer 1997-98 was made range/Zone wise. However two separate seniority lists were prepared based on the date of



W.P.No.13033 of 2020 etc. batch

WEB COPY

appointment. Against the above fixation, many second batch candidates who scored higher marks in the Police training college than the first batch candidates filed Writ Petitions. On examination of the request, orders were issued revised the seniority of 96 persons vide government orders vide fifth to ninth read above.

2. In view of the repeated representations and court orders, the Director General of Police/Head of Police Force, Chennai in his letter 10th read above, among others, has proposed to revise the seniority of the Sub-Inspector is of Police directly recruited in the year 1997-98, but whose seniority in Two different compartments as they were sent for training in two different batches on 16.04.1999 and 22.05.2000 the Director General of Police has stated the 50 percent of Top most rank holders in each Zone were sent for Training in the First Batch on 16.04.1999 and the remaining 50 percent were sent for training in Second batch on 22.05.2000 for want of accommodation in the Police Training College and two seniority list were drawn based on the date of appointments.

3. The Director General of Police/Head of Police Force, Chennai, has, therefore requested to issue necessary orders to prepare a fresh seniority list of Sub-Inspector of Police directly recruited in the year of 1997-98 in a combined manner clubbing the candidates sent for training in different batches as One batch except for the candidates for whom any specific direction regarding fixation of seniority as already been given (i.e.,) for the candidates appointed as fresh entrants during the year 2015 and



WEB COPY



W.P.No.13033 of 2020 etc. batch

2018 as per the directions of High Court of Madras and its Madurai Bench.

4. In the Meantime the High Court of Madras, in a similar case, in the orders Thirteenth read above, in W.P.No.21698/2018, ordered as follows:

(i) In respect of the same recruitment/selection, all the selected candidates, who were appointed to the post of Sub-Inspectors are to be treated as one Unit for the purpose of fixation of seniority. The delay caused, if any, on administrative reasons and for providing training would not affect the prospects of the candidates, who were selected in the same selection.

(ii) The selection list already maintained by the Department with reference to the same selection is to be taken into account for the purpose of arriving the seniority of respective persons, who were appointed pursuant to that selection.

(iii) In this regard, the authorities competent must ensure that the merit list/ranking list as well as the order of appointments are to be considered for the purpose of fixation of seniority of the respective candidates, taking note of the fact that such persons are appointed from the same selection.

(iv) In this regard, if any discrepancies are found in the impugned seniority list now under challenge in the present writ petition, the respondents are bound to review the decisions in order to correct the errors, if any, occurred.

(v) The writ petitioner is at liberty to submit her revised objections/explanations, if any, with reference to the fixation



WEB COPY



W.P.No.13033 of 2020 etc. batch

of her seniority, within a period of four weeks from the date of receipt of a copy of this order. In the event of receiving any such objections/explanations, with reference to her respective seniority, such applications/objections/explanations are directed to be considered by the authority and appropriate decision is to be taken by strictly following the rule of seniority as stated above, within a period of twelve weeks from the date of submission of her objections/explanations.

(vi) The official respondents must ensure that the rule regarding the seniority is strictly followed without any deviation or ambiguity. In the event of any doubt, suitable clarifications are also to be obtained from the Government and accordingly, implement the Rule of seniority in order to avoid all such further litigations in this regard.

5. The Government have carefully examined the proposal of Director General of Police/Head of Police Force Tenth read above, taking into account the above directions of High Court of Madras and the opinion of learned Advocate General of Tamil nadu and have decided to accept it. As per the provision to rule 25(a) of the Special rules for the Tamil nadu Police Sub ordinate services, the seniority of the directly recruited Sub-Inspectors of Police (category-2 of Class – I) shall be fixed on the basis of the marks obtained by them in the final examination in Police Training College. Accordingly, the Director General of Police/Head of Police force is directed to revise the seniority of the directly recruited Sub-Inspectors of Police during the year 1997-98 as per the marks obtained by them in Police Training College and to prepare a fresh



WEB COPY



W.P.No.13033 of 2020 etc. batch

seniority list in a combined manner by clubbing the candidates sent for training in two different batches as one batch assigning the revised seniority numbers except for the candidates for whom any specific directions have been given regarding fixation of seniority as per the directions of the Courts and as per the rules in force, subject to the outcome of the pending litigations before the courts in this regard, after inviting objections from all the candidates recruited as Sub-Inspectors of Police during 1997-98. A Compliance report along with the revised seniority list may be sent to government.

By Order of the Governor

S.K.Prabakar

(Additional Chief Secretary to Government)

To,

- 1.The Director General of Police/Head of Police force, Tamil Nadu, Chennai-04.
- 2.The Director General of Police/Chairman Tamil Nadu Uniformed Services Recruitment Board, Chennai-08.

Copy to:

The Office of the Hon'ble Chief Minister, Chennai-09.
The Personnel and Administrative Reforms Department,
Chennai-09.
The Law Department, Chennai-09.
Stock file/spare Copy.

/Forwarded/By Order/

Sd/

SECTION OFFICER"



W.P.No.13033 of 2020 etc. batch

WEB COPY 7. It is relevant to recapitulate the relevant portion of the judgment of the Apex Court made in *K.K.Senthilkumar's* case, *supra*, in the matter of seniority:

"During the course of hearing, a serious issue arose as to whether the above-mentioned 11 persons, should be granted seniority with effect from the same date persons originally selected against the posts of Sub-Inspector (through the selection process for the years 1997-98) were appointed. Learned counsel for the above-mentioned 11 appellants very fairly state, that they would have no objection if the appointment of these 11 appellants, were ordered to be made with immediate effect, in that, they would be extended the benefit of seniority at the bottom of the regularly appointed Sub-Inspectors as of today. Ordered accordingly."

8. Mr.V.Prakash, learned Senior Counsel for the petitioners in W.P.No.12966 of 2021 submitted that the terms of the rules cannot be modified on an agreement between individuals. So the willingness of the appellants involved in *K.K.Senthilkumar's* case, *supra*, by



W.P.No.13033 of 2020 etc. batch

expressing no objection cannot change the rules of seniority and, hence, the petitioners are entitled to be placed only along with their batch mates of the year 1997-1998.

9. The aforesaid argument is adopted by Mr.Vijay Narayan, learned Senior Counsel for the petitioners in W.P.No.18057 of 2021, who also added that the rule cannot be diluted by giving waiver to some set of people. Learned Senior Counsel further submitted that the service jurisprudence would only mandate to treat the similarly placed persons equally and the question of seniority should be governed by the rules. Reliance was placed on the judgments of the Apex Court in the following cases:

- (i) K.C. Sharma and others v. Union of India, (1997) 6 SCC 721.*
- (ii) State of Karnataka and others v. C.Lalitha, (2006) 2 SCC 747.*
- (iii) State of Uttar Pradesh and others v. Arvind Kumar Srivastava and others, (2015) 1 SCC 347*



W.P.No.13033 of 2020 etc. batch

WEB COPY

10. Mr.P.Wilson, learned Senior Counsel for petitioners in W.P.No.10747 of 2021 and petitioners 2 to 24 in W.P.No.12783 of 2021 also advanced his arguments in similar lines in which the other learned Senior Counsels for the petitioners in W.P.Nos.12966 and 18057 of 2021 have argued. Mr.P. Wilson further submitted that in W.A.No.1350 of 2017 and batch, it has been observed that the seniority list has to be prepared on the basis of the date of reporting and not below the Sub-Inspectors of Police who have been directly recruited in the year 2015. It is further submitted that when a thing is ordered to be done, it should be done in a manner known to law or it should not be done. To fortify the said submission, learned Senior Counsel placed reliance on the judgment of the Apex Court in the case of *Babu Vergese and others v. Bar Council of Kerala and others*, (1993) 3 SCC 422. He further submitted that the judgment should not be read as a statute, but it must be construed as if it had been rendered *inter se* parties and in accordance with law. Learned Senior Counsel also placed reliance on the decision of the Apex Court in



W.P.No.13033 of 2020 etc. batch

WEB COPY *C.Lalitha, supra.*

11. Mr.G.Sankaran, learned Senior Counsel appearing for the first petitioner in W.P.No.12783 of 2017 reiterated the aforesaid submissions made by the other learned Senior Counsels.

W.P.Nos.10747, 12783, 12966 and 18507 of 2021:

12. The sum and substance of the claim of the petitioners in these writ petitions is that when rules of seniority prescribe that the seniority shall be fixed on the basis of the marks obtained in the final examination of the police training and when the candidates selected in one recruitment should be treated as one unit for the purpose of seniority, the seniority of the petitioners has to be re-fixed, except for the candidates for whom any specific directions have been given for fixation of seniority.

13. The petitioners and others could not be appointed as Sub-Inspectors of Police in view of the range-wise selection method



W.P.No.13033 of 2020 etc. batch

WEB COM

adopted by the TNUSRB has ended in fiasco. Since some of the candidates have filed litigations from time to time before the Tribunal and later writ petitions and then appeal before the Apex Court, the petitioners also got their chance of appointment. Though a blunder has been committed by the TNUSRB, the petitioners have joined the service after several years. Even though the petitioners have conveniently claimed that they were not parties to the earlier proceedings, their appointment orders have been issued only based upon the orders passed by the Court in the earlier litigations and not otherwise.

14. Though it is the argument of the petitioners that rules cannot be waived by some set of people expressing their willingness for the same, they could seek a favourable order from the Court only because they have given a go-by to the claim for seniority in respect of the year 1997-1998 and conceded to have them placed below the Sub-Inspectors of Police who were selected as on the date of the order. Obviously, at the time when the order has been passed in



W.P.No.13033 of 2020 etc. batch

WEB COPY

W.A.No.1350 of 2017 etc. batch on 23.04.2018, the Court could not have looked into the decision of the Apex Court made in *K.K.Senthilkumar case, supra*, on the aspect of seniority. The order dated 23.04.2018 in respect of regularisation has not dealt the complex issues involved in the seniority and a concrete finding as to how the seniority has to be fixed is not arrived at. It is a generous observation made in terms of and in view of the Government Orders already issued for accommodating 77 persons who satisfied the minimum cut-off marks. Having found that the writ appeals became infructuous in view of the above order of appointment, the writ appeals have been disposed of. Even in that order, it has been clearly observed that "*the selectees will get their benefit only from the date on which they are given appointment order and they cannot get any benefit retrospectively*".

15. For the sake of convenience, the concluding paragraph of the judgment dated 23.04.2018 in W.A.No.1350 of 2017 etc. batch is extracted hereunder:



WEB COPY

"7. Since out of 88, pursuant to the direction given by this Court, the Government has accommodated 77 persons, who satisfied the minimum cut off marks in the District wise selection, we are of the considered view that the above writ appeals filed by the Government as against the order passed by the learned Single Judge has become infructuous and hence, the above Writ Appeals are disposed of. However, so far as those persons who are selected, the benefit of their selection would be only from the date of the issuance of appointment order prospectively. Since it is found that the Government has considered selection of 77 persons and their appointment orders would come into effect from the date of reporting for duty, seniority list has to be prepared on the basis of date of reporting and they are not entitled for any other service benefits over others who were already selected. All the connected miscellaneous petitions are closed."

16. One thing which has to be noticed is that while issuing the Government Order for accommodating 77 persons in the post of Sub-Inspectors of Police, there was no vacancy pertaining to the



W.P.No.13033 of 2020 etc. batch

WEB.COM

recruitment year 1997-1998 and an adjustment has been made from and out of the vacancies of the year 2015-2017. Even though the petitioners have undergone the selection process for the year 1997-1998, what was offered to them was the post pertaining to the year of 2015-2017. The petitioners knew pretty well about the impact of the seniority at the time when they had chosen to accept the appointment order. All candidates appointed pursuant to the orders of the court availed the benefit accrued from the orders of the Court. Though some of the candidates were not parties to proceedings, they were aware of the loss of years of service and the resultant seniority. Even though rules cannot be diluted by way of agreement to waive, the fact remains that vacancies offered to the petitioners as per their appointment orders are only from and out of the years 2015-2017.

17. Had the petitioners sought a clarification about the general words employed in the judgment in W.A.No.1350 of 2017 in respect of their seniority, the intention of the Court would have been made clear. In the order dated 23.04.2018 in W.A.No.1350 of 2017, it has been



W.P.No.13033 of 2020 etc. batch

WEB COPY

clearly stated that persons newly appointed are not entitled to any other service benefits over the others who have been already selected. That means all those who have been appointed by virtue of the impugned appointment order could not get any benefit, including the seniority over and above all persons already selected.

18. Learned Additional Advocate-General appearing for the respondent State has drawn the attention of this Court to the earlier orders passed by this Court in W.P.(MD)No.20599 of 2019 [*M.Sundarapandian v. The State of Tamil Nadu, rep. by its Secretary, Home (Police V) Department, Fort St. George, Chennai-9*], wherein the same issue was raised and it was negated by an order dated 06.07.2021. Paragraphs (13) and (14) of the said order would be relevant and the same are quoted hereunder:

"13.The learned counsel appearing for the petitioner now submitted that the said consent was given without the knowledge of the petitioner. At this stage, it is pertinent to note that some of the candidates filed Review Petition (C) Nos.2872 to 2876 of 2014, to



WEB COPY

review the order fixing the seniority at the bottom of the Sub-Inspector of Police as on that date. The said review petition was dismissed on 06.05.2015, confirming the order, dated 07.08.2014 in Civil Appeal Nos.7668 to 7672 of 2014, placing the petitioner and others at the bottom of the seniority list of regularly selected Sub-Inspector of Police as on the order of the Hon'ble Apex Court.

14.In view of this fact, it is not open to the petitioner now to contend that consent was given before the Hon'ble Apex Court without his knowledge and therefore, the same is not binding on him. The petitioner, in fact, is seeking to set aside the order of the Hon'ble Apex Court for fixing his seniority. The order of the Hon'ble Apex Court is binding on all the High Courts and Subordinate Courts. This Court has no power or competent to overrule the order of the Hon'ble Apex Court and direct the respondents to fix the seniority of the petitioner on par with his batch mates. It is pertinent to note that one V.Jeyabalan, similarly placed like the petitioner, gave a representation dated 25.04.2016 and the said representation was rejected by the respondents on the



W.P.No.13033 of 2020 etc. batch

WEB COPY

same day, when the petitioner's representation was also rejected on 31.08.2016. This Court, by an order, dated 03.01.2017, referring to the order of the Hon'ble Apex Court in Civil Appeal Nos.7668 to 7672 of 2014, dated 07.08.2014, dismissed the Writ Petition filed by the said V.Jeyabalan. The petitioner also filed W.P(MD) No.19544 of 2016, challenging the order, dated 31.08.2016 and also filed a review petition before the second respondent to review the order of rejection, dated 31.08.2016. When the Writ Petition was taken up for hearing, the learned counsel appearing for the petitioner restricted the claim of the petitioner to dispose of the review petition in the said Writ Petition and by an order, dated 05.10.2018, the said Writ Petition was disposed of, directing the respondents to dispose of the review petition within a period of two months."

19. It is made crystal clear in the aforesaid observation that the petitioner therein cannot contend that consent was given without his knowledge and, hence, the judgment of the Apex Court placing the similarly situated other petitioners at the bottom of the seniority list of



W.P.No.13033 of 2020 etc. batch

regularly selected Sub-Inspector of Police will not bind him.

20. Learned Senior Counsels for the petitioners submit that the Courts should not place reliance on the decisions without discussing as to how the factual situation fits in with the fact situation of the decision on which reliance is placed. But, here is a case where the petitioners are given appointment as against the vacancies of the year 2015 even though the selection process is of the year 1997-1998. In all probabilities, possibilities and factual circumstances, the petitioners cannot claim over and above those who have already been selected at the relevant point of their appointment.

21. The appointment of the petitioners cannot be equated with the other appointments. The petitioners could get into the department after waiting for several years and after facing several turn of events - either by being or not being parties to the proceedings before the Courts. Hence, the petitioners cannot claim the benefit of seniority in respect of the year 1997-1998 as though they are unaware of the



W.P.No.13033 of 2020 etc. batch

WEB CO tumult and turbulence connecting to their appointment.

22. In the extraordinary circumstances in which the petitioners have been given with the appointment by bending the rules to the effect of deducting certain posts of future vacancies, the rules with regard to seniority should also be relatively interpreted and the petitioners cannot claim ignorance or lack of consent on their part to be placed below the Sub-Inspectors of Police who were already in service as on the date of their appointment. Thus, the petitioners in W.P.Nos.10747, 12783, 12966 and 18507 of 2021 are not entitled to the relief claimed by them.

W.P.Nos.13033, 17937 of 2020 and 5677 of 2021:

23. Insofar as the petitioners in W.P.Nos.13033, 17937 of 2020 and 5677 of 2021 are concerned, they did not wait for any miracle to happen despite their good efforts to get appointed in the recruitment year 1997-1998 got failed. They themselves conveniently have participated in the subsequent selection to the post of Constables and



W.P.No.13033 of 2020 etc. batch

WEB COPY

have entered the service as Constables. After they reached the position of Head Constables, they have been given the benefit of orders pertaining to the other petitioners in respect of these appointments. Unfortunately, for these petitioners, the regular promotion would have given more benefit than the benefit got through the direct recruitment, pursuant to the orders of the Court. The past services of these petitioners cannot be denied or go unrecognized and their continuous service has to be taken into consideration by the respondents. When these petitioners stand on a different footing, the same yardstick ought not to have been adopted against them to their disadvantage. In fact these are the persons who did not wait to blame the blunders of the recruitment. Instead they had chosen to take the quick and practical route to stick in the department, when the next recruitment for police constable was taken effect.

24. The impugned order issued by the first respondent State, vide G.O.(Ms) No.249, Home Police-III Department, dated 06.07.2020, is primarily based on Clause (6) of the Rulings under Explanation 4 to



W.P.No.13033 of 2020 etc. batch

WEB COPY

FR 22-B of the Tamil Nadu Fundamental Rules. FR 22-B will ensure fixation of initial pay in the promotional cadre of person who is getting equal pay in the lower post itself by one increment at the stage at which the pay notionally arrived at by increasing the pay in his lower post. FR 22-B reads thus:

"22-B. Notwithstanding anything contained in these rules, where a Government servant holding a post in a substantive or officiating capacity, is promoted or appointed a substantive or officiating capacity, to another post carrying duties and responsibilities of greater importance than those attaching to the post held by him, his initial pay in the time-scale of the higher post shall be fixed at the stage next above the pay notionally arrived at by increasing his pay in respect of the lower post by one increment, at the stage at which such pay has accrued. If the monetary benefit after such fixation falls short of five per cent of the pay drawn in the lower post, his pay in higher post shall be so fixed, allowing a minimum increase of five per cent of the pay drawn in the lower post. Where the pay drawn in the lower post on the date of promotion or appointment plus five per cent of the pay



WEB COPY

drawn in the lower post is a stage in the time-scale of pay of the higher post, the pay shall be fixed at such stage in the time-scale of pay of the higher post. Where the pay drawn in the lower post on the date of promotion or appointment plus five per cent of the pay drawn in the lower post exceeds the amount arrived at for fixation of pay in the higher post under this rule but where there is no corresponding stage in the time-scale of pay of the higher post, the pay shall be fixed at the next higher stage in the time-scale of pay of the higher post.

Provided that

Explanation 1.

Explanation 2.

Explanation 3.

Explanation 4.

Rulings (1) to (5)

(6) In the case of a Government servant already in service in a post is appointed to another post through the Tamil Nadu Public Service Commission by direct recruitment, or when the mode of his appointment to the new post is by direct recruitment, the Government servant concerned should be allowed to draw the minimum of the time scale of pay or as provided in the



W.P.No.13033 of 2020 etc. batch

WEB COPY

service rules relating to such appointments and fixation of pay under Fundamental Rule 22 or 22-B is not admissible.”

25. However, Clause (6) of the Rulings under Explanation 4 to FR 22-B of the Tamil Nadu Fundamental Rules would speak about the appointment to another post of a person already in service through the Tamil Nadu Public Service Commission by direct recruitment. In such case, the Government servant concerned would be allowed to draw the minimum time-scale of pay as provided in the service rules relating to such appointments and fixation of pay under FR 22 or FR 22-B is not admissible.

26. By considering the petitioners who are already in service as fresh recruits to the post of Sub-Inspectors of Police, in pursuant to the orders of this Court in respect of other persons who have participated in the recruitment of the year 1997-1998, the pay for these petitioners have been fixed not under FR 22-B. While fixing the pay without giving the benefit of FR 22-B, the respondent State



W.P.No.13033 of 2020 etc. batch

WEB.COM

omitted to take into consideration of the fact that many persons of these petitioner's constable batch, would have the benefit of FR 22-B on their promotion to the post of sub-inspector.

27. This is a classic example of how a long legal battle had affected even those persons who had not depended on the outcome of the litigation but proceeded to fit in the next available opportunity. At the time when the litigation to the recruitment for the year 1997-1998 got disposed and the benefit of those orders was extended to these petitioners, they have been serving as senior head constables. And they have been getting the pay equivalent to the starting pay of the sub-inspector. Even without the aid of the orders of the court, the next level promotion for these persons is sub-inspector of police only. As they had entered into service by undergoing proper selection process and in accordance with Rules, the benefit of FR 22-B should have been given to them.

28. Even by considering the petitioner's case as an extra-ordinary



W.P.No.13033 of 2020 etc. batch

one, a special order could have been issued for entitling the petitioner to get the benefit of FR 22-B for these petitioners.

29. Clause (6) of the Rulings under Explanation 4 to FR 22-B of the Tamil Nadu Fundamental Rules forbids the grant of benefits of FR 22 or FR 22-B to a new entrant through the direct recruitment by TNPSC. But it does not contemplate a situation that had arisen in this case.

30. In normal course, if persons already in the department participate in any subsequent direct recruitment and get appointed, no doubt, Clause (6) of the Rulings under Explanation 4 to FR 22-B of the Tamil Nadu Fundamental Rules will apply. But these petitioners, had already participated in the selection process even before their recruitment as Constables and hence this situation can not be treated as an in service direct recruitment. In view of the peculiar situation that had arisen in this case, the benefit of 22-B should be granted to them.



W.P.No.13033 of 2020 etc. batch

WEB COPY 31. It is difficult to imagine persons already in service are robbed off the benefits normally enjoyable by them, in view of the lapses on the part of someone else or the institution. If the outcome of a judicial order confers any better benefit than what is being already enjoyed it is acceptable. If, it strips away the benefits already enjoyed and puts the receiver at a disadvantage, the interest of justice cannot be served.

32. In the instant case, the petitioners have lost the benefit under FR 22-B which was normally available to them. In fact, these petitioners did not wait for the aid of the court's order to design their future. They had risen up to the occasion and got themselves employed at least in the next recruitment for Constables by burying their original dreams and aspirations. Instead of appreciating their efforts and putting them at a better position, they have been treated on par with those persons who stood either as fence-sitters or completely dependent on the verdict of the Court, to draw the lines for their future.



W.P.No.13033 of 2020 etc. batch

WEB COPY

33. The rules are framed just to ensure equality and not to cause anomaly or disorder. In the instant case, by withholding away the benefits of FR 22-B to the petitioner, an anomalous situation has been caused and the same has to be rectified. It is needless to say that in the earlier occasion also such kind of anomalies have been resolved by passing appropriate orders by the State. Hence the State shall not find any difficulty to appreciate the anomalous situation and pass positive orders in favour of the petitioners in W.P.Nos.13033, 17937 of 2020 and 5677 of 2021 for refixing their pay by giving them the benefit of FR 22-B.

34. For the foregoing reasons,

- (i) W.P.Nos.**13033, 17937 of 2020 and 5677 of 2021** are **allowed** and the respondent authorities are directed to pass orders and re-fix the scale of pay of the petitioners by giving them the benefit of FR 22-B and in the light of the observations made



WEB COPY



W.P.No.13033 of 2020 etc. batch

herein above.

(ii)The said exercise is directed to be completed within a period of six weeks from the date of receipt of a copy of this order.

(iii)W.P.Nos.**10747, 12783, 12966 and 18507 of 2021** are **dismissed**.

(iv)There shall be no order as to costs.

(v)Consequently, W.M.P.Nos.13768, 13769, 13770, 13771, 11380, 11382 11383, 11386, 13580 to 13582, 13584, 19738, 11379 and 19740 of 2021; 16148, 16150, 16152, 16154, 22235, 22236, 22239 of 2020; 6288, 6290, 6291 and 6294 of 2021; 9759 and 9760 of 2022 are closed.

14.03.2024

Index : Yes/No
Speaking order/ Non Speaking Order
Neutral Citation : Yes/No

bbr



WEB COPY



W.P.No.13033 of 2020 etc. batch



W.P.No.13033 of 2020 etc. batch

WEB COPY

- To
- 1.The Additional Chief Secretary to Government,
State of Tamil Nadu,
Home (Police III) Department,
Fort St. George,
Chennai 600 009.
 - 2.The Director General of Police,
Office of DGP,
Post Box No.601,
Dr.Radhakrishnan Salai,
Mylapore, Chennai-600 009.



WEB COPY



W.P.No.13033 of 2020 etc. batch

R.N.MANJULA, J.

bbr

W.P.Nos.13033, 17937 of 2020 and 5677 of 2021 &
W.P.Nos.10747, 12783, 12966 and 18507 of 2021
and
W.M.P.Nos.13768, 13769, 13770, 13771, 11380, 11382
11383, 11386, 13580 to 13582, 13584, 19738,
11379 and 19740 of 2021; 16148, 16150, 16152,
16154, 22235, 22236, 22239 of 2020; 6288, 6290,
6291 and 6294 of 2021; 9759 and 9760 of 2022

14.03.2024