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W.P.No.12124 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.06.2025

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THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

W.P.No.12124 of 2025

And

W.M.P.No.13690 of 2025

S.Mohanasundaram

... Petitioner

Vs.

1.The Director General of Police,
Tamil Nadu Police Department,
Mylapore, Chennai – 600 004.

2.The Commissioner of Police
Greater Chennai Police,
Veppery,
Chennai – 600 007.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records in connection with the proceedings issued by the second respondent vide Rc.No.Estt.V(2)/593/81119/2021 dated 03.06.2022 and quash the same as illegal as devoid of merits and direct the respondents to fix the seniority of the petitioner in their recruited batch in the year of 2011 in the appropriated place.



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For Petitioner : Mr.L.Ramu
For Respondents : Mr.G.Nanmaran
Special Government Pleader

ORDER

The petitioner has filed this writ petition seeking issuance of Writ of Certiorarified Mandamus to call for the records in connection with the proceedings issued by the second respondent vide Rc.No. Estt.V(2)/593/81119/2021 dated 03.06.2022 and quash the same as illegal as devoid of merits and direct the respondents to fix the seniority of the petitioner in their recruited batch in the year of 2011 in the appropriated place.

2.The learned counsel appearing for the petitioner would submit that the petitioner applied for the post of Grade II Police Constable in 2009 – 2010 recruitment and he has successfully completed written examination, thereafter passed physical efficiency and medical tests. Thereafter, during the year 2011, he was rejected on the ground that he has difficulty in visual acuity. Based on his request for re-medical examination, re-medical examination was conducted and was declared that he was fit. In view of the same, he was again allowed to join training from April, 2012 namely, next batch onwards.



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3.It is the submission of the learned counsel appearing for the petitioner that though the petitioner was qualified from 2009 – 2010, his seniority was fixed from 2013 which is affecting his promotion. The learned counsel would further submit that it is not his fault, only the authority rejected him without properly examining the medical condition. The learned counsel appearing for the petitioner also relied on the order of this Court dated **21.02.2025 in W.P.No.12338 of 2024 [S.Seeralan Vs. The Director General of Police and another]**.

4.Per contra, the learned Special Government Pleader would submit that in view of Rule 40(6) of the Tamil Nadu Government Service (Conditions of Service) Act, 2016, any claim for seniority must be given within three years from the date of appointment. In the case of the petitioner almost more than ten years have gone. Therefore, in view of the delay, he is not entitled for any relief.

5.I have given anxious consideration to either side submissions.

6.It is admitted fact that the petitioner was selected during the 2009 - 2010 recruitment as Grade II Police Constable, subsequently,



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his recruitment was rejected on the ground that he has got some visual problem, however, on re-medical examination, his eye was declared to be fit. However, he was directed to join training with April, 2012 batch.

7.As rightly contented by the learned counsel appearing for the petitioner, admittedly, there is no fault on his part and only upon wrong evaluation of the petitioner's medical condition, he was rejected and subsequently, the same was set right. In this connection, the learned counsel relied upon the order of this Court dated **21.02.2025 in W.P.No.12338 of 2024 [S.Seeralan Vs. The Director General of Police and another]**, wherein, the learned Single Judge relied upon the earlier judgment passed in **W.P.(MD)No.15958 of 2023 [R.Veerapandian Vs. The Director General of Police (Law and Order), Tamil Nadu Police Department, Chennai and another]** and held that the delay in sending the representation will no way affect the petitioner, since it is not his fault, and only mistake on the part of the department, the relevant portion of which is extracted hereunder:

"4.The learned counsel for the petitioner stated that a learned Single Judge of this Court in W.P.(MD).No.15958 of 2023, R.Veerapandian Vs. the Director General of Police (Law & Order), Tamil Nadu Police Department, Chennai



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and another, had also examined the issues raised and also passed a similar order. It had been held as follows:

"7. A learned Single Judge of this Court in W.P(MD)No.5356 of 2023 (M.Mohan Vs. The Director General of Police & Others), dated 06.06.2023 has been passed an order in similar lines. The relevant portion of which is extracted as follows:

"5. I carefully considered the rival contention and went through the materials on record. The issue raised in the writ petition is no longer res integra. An identical issue arose for consideration in W.P.No.22454 of 2021 vide order dated 27.10.2021. The writ petition was allowed in the following terms:-

"7. This is the case where the petitioner has successfully cleared examinations and the mile stone prescribed for qualifying himself to the post of Grade II Police Constable in the recruitment since during 2001- 2003. However, the petitioner was not selected on the ground that the petitioner was medically unfit on account of bilateral flat feet which has been considered and not to be a qualifying for appointing the petitioner as Grade II Police Constable. The delay in getting appointed with the



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respondents was not on account of the fault of the petitioner but on account of the stand taken by the respondents. As a matter of fact under similar circumstances in W.P.(MD)No.33479 of 2016 by an order dated 02.09.2021, the appointment was directed to be given pursuant to the order of this Court in W.P.No.3273 of 2016, dated 25.01.2008. The issue is no longer resintegra and the issue is squarely covered in favour of the petitioner. There the petitioner had sought for refixing of seniority to include his name in the appropriate list and selection list during the year 2001-2003 for the post of Police Constable with effect from the date of training.

8. In view of the above, the writ petition stands allowed with consequential relief to the petitioner. The respondents are therefore directed to carry out the necessary corrections in the Service Register of the petitioner by refixing the seniority of the petitioner along with the batchmates who participated in the Recruitment called for during the year 2001-2003. The above exercise shall be carried out by the respondent within a



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period of twelve weeks from the date of receipt of a copy of this order."

6. I am inclined to adopt the very same approach. As rightly pointed out by the learned counsel appearing for the petitioner, the petitioner was not at all at fault. Only because the recruiting agency proceeded on misconception that the petitioner's vision was defective, he was not appointed. If everything had taken place in the appropriate time sequence, the petitioner would have been sent for training in the year 2012 itself. Therefore, for the fault committed by the respondents, the petitioner cannot be made to suffer. Lost of three years seniority will definitely have serious civil consequence. The question that arises for consideration is whether the petitioner's application should be rejected as barred by limitation. Section 40(6) of the Tamil Nadu Government Servant (Condition of Service) Act, 2016 is as follows:-
"Application for the revision of seniority of a person in a service, class, category or grade shall be submitted to the appointing authority within a period of three years from the date of appointment to such



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service, class, category or grade or within a period of three years from the date of order fixing the seniority, as the case may be. Any application received after the said period of three years shall be summarily rejected. This shall not however be applicable to cases of rectifying orders, resulting from mistake of facts." The provision itself makes it clear that limitation will not be applicable to cases of rectifying orders resulting from mistake of facts. The case on hand would fall under such category. Non-inclusion of the petitioner in the seniority list of the year 2012 is a mistake of fact.

7. In this view of the matter, the orders impugned in the writ petition are set aside."

8. In fully consonance to the order passed by the learned Single Judge of this Court discussed supra, I hereby direct the respondents to fix the petitioner's seniority with the recruitment batch of the year 2012-13 within a period of twelve (12) weeks from the date of receipt of a copy of this order. However, this Court makes it clear that the petitioner will not be entitled



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*to any arrears of pay for the said period
2012-2015."*

8.The present case squarely covers with the above ratio. In view of the same, a direction is given to the respondents to refix the seniority of the petitioner along with 2009 - 2010 batch, within a period of twelve weeks from the date of receipt of a copy of this order. However, it is made clear that the petitioner will not be entitled to any arrears of pay for the said period.

9.The writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

27.06.2025

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Index: Yes/ No Speaking Order: Yes/ No NCC: Yes/ No

To

- 1.The Director General of Police,
Tamil Nadu Police Department,
Mylapore, Chennai – 600 004.
- 2.The Commissioner of Police
Greater Chennai Police,
Veppery, Chennai – 600 007.

C.KUMARAPPAN,J.

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And
W.M.P.No.13690 of 2025**

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