



W.A.(MD)No.1133 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 17.07.2025

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**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HONOURABLE MR.JUSTICE K.RAJASEKAR**

**W.A.(MD)No.1133 of 2023
and
C.M.P.(MD)No.8656 of 2023**

1.The State of Tamilnadu,
Rep. by the Secretary to Government,
Home (Police II) Department,
Secretariat, Chennai - 9.

2.Tamil Nadu Uniformed Service,
Recruitment Board,
No.807, P.T.Lee. Chengaivarayan Naicker Building,
Chennai -2,
Rep. by the Chairman.

3.The Director General of Police,
Mylapore, Chennai -4.

... Appellants

Vs.

R.Sheik Abdullah

... Respondent



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Prayer : Writ Appeal filed under Clause XV of Letters Patent, to allow the writ appeal by setting aside the order passed in W.P.(MD)No.9417 of 2015 dated 25.11.2022 on the file of this Court.

For Appellants : Mr.Veerakathiravan,
Addl. Advocate General,
Assisted by Mr.A.Kannan,
Addl. Government Pleader.

For Respondent : Mr.G.Prabhu Rajadurai,
For Mr.D.Selvanayagam.

JUDGMENT
(By G.R.SWAMINATHAN, J.)

Heard both sides.

2.The State is on appeal challenging the order dated 25.11.2022 made in W.P.(MD)No.9417 of 2015 filed by the respondent herein.

3.The respondent herein took part in the direct recruitment process held for the post of Sub Inspector of Police Category I in the year 1997 – 1998. Even though he had scored above the cut off mark, he was not



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called for interview. This was primarily because the selection was held on zonal wise basis. Challenging his exclusion from the final stage of selection process, the respondent herein filed W.P.(MD)No.9417 of 2015. The learned Single Judge disposed of the writ petition vide order dated 25.11.2022 in the following terms:

“9.After considering the rival submissions made by the Learned Senior Counsel and the Learned Additional Advocate General, this Court is of the considered opinion that when the Courts have held that “zonal wise cutoff” mark is illegal and directed to recruit on the basis of “state wise cutoff” mark, then it is applicable to all the candidates who participated in the recruitment process. Then the State Government ought to have revised the list based on the “state wise cutoff” mark and published the list. The State Government failed to do so. If the State Government had approached without any discrimination, then all the candidates ought to have been called even though they did not approach the Court and granted selected the candidates. The Hon'ble Supreme Court has categorically held, there would have been no need for the candidates either to approach the High Court or Government, if the order is implemented in letter and spirit. In such circumstances the delay cannot be a ground to deny the benefit.

10.Moreover if the plea of the respondents is accepted and then it would amount to allow the respondents to follow zonal wise



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cutoff mark, but the zonal wise cutoff mark is held illegal, then the respondents would be allowed to perpetuate the illegality.

*11.As far as the plea of the respondents that the issue is decided by the Learned Single Judge, this Court is of the considered opinion that, based on the Law of precedents, the Hon'ble Supreme Court is binding. Since in the same recruitment process in the case of K.K.Senthil Kumar's case the Hon'ble Supreme Court has held delay alone could not be a valid justification to deprive these meritorious candidates, the right to be appoint. Accordingly, this Court is following the Judgment rendered by the Hon'ble Supreme Court in **K.K.Senthil Kumar's** case and passing the following order:*

(i). Since the petitioner is not attended any Viva voce, he is entitled for conducting Viva voce.

(ii) This Court issues direction to the respondents to conduct Viva voce and if the petitioner is selected in the Viva voce and reaching cutoff mark of 65.25, the respondents shall grant an appointment to the petitioner.

(iii) If the petitioner is successful in Viva voce and in selection process, the petitioner is entitled to place as the junior most in the Seniority list for year 2022."

Aggrieved by the same, this writ appeal has been filed by the State.



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4.No doubt the persons who were similarly placed were granted relief. But the only question that calls for consideration is whether the very same benefit can be extended to the writ petitioner / respondent herein. The prayer in the writ petition itself reads thus:

“Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents to appoint the petitioner to the post of Sub Inspector of Police, Category - I, in the light of the decision of the Honourable Supreme Court in SLP No.21028 of 2006 etc., in Civil Appeal No.7887 of 2014 etc., dated 07.08.2014 in pursuance of the marks secured by the petitioner in the selection process of Written Exam and Physical Test by calling the petitioner for Via Voce for the year 1997-1998 and consequently promote the petitioner to the post of Inspector of Police with all monetary and service benefits.”

5.It can be seen from the above only after the similarly placed individuals succeeded before the Supreme Court, the writ petitioner woke up and filed the present writ petition. Obviously, the writ petitioner has been a fence-sitter. He is guilty of gross laches. It is seen that when few other similarly placed persons filed writ petitions and they were



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dismissed, they went before the Hon'ble Division Bench by filing W.A.(MD)Nos.1124 to 1132 of 2016. The Hon'ble Division Bench vide order dated 19.04.2023 dismissed the writ appeals in the following terms:

16. Even though the learned Senior Counsel has made an attempt to satisfy this Court that the appellants are entitled for appointment to the post of Sub Inspector of Police, in view of the fact that similarly placed persons have got the same benefit, challenging the zonal wise selection, he fairly admitted that the appellants have approached the Court belatedly. According to the appellants, the said delay is only due to inadvertence. But, in our view, the appellants have not approached the Court, immediately after publishing the result during the year 1998 or even after getting information under RTI Act during the year 2008 and they watched the entire proceedings before the Tribunal, High Court and also before the Supreme Court as fence sitters and after coming to know about the results of the litigations in their favour, they approached the Court after lapse of several years. Therefore, we are of the view that the Writ Court has rightly observed that the writ petitioners/ appellants herein are fence sitters and their claims are hit by delay and laches and has rightly dismissed the writ petitions. Hence, this Court is unable to accept the contentions of the appellants and consequently, we confirm the order passed by the learned Single Judge.”



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6. We are of the view that the very same approach has to be adopted in the present case also. The order of the learned Single Judge is set aside and the writ appeal is allowed. No costs. Consequently, connected miscellaneous petition is closed.

(G.R.S. J.,) & (K.R.S. J.,)
17.07.2025

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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To:

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