

W.P.(MD).No.17786 of 2017

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

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|-----------------|------------|
| Reserved on :   | 31.01.2025 |
| Pronounced on : | 13.02.2025 |

CORAM

**THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE**

**W.P.(MD).No.17786 of 2017 and**

**WMP.(MD).No.14336 of 2017**

M.Nallathambi  
S/o. Mutaiah Thevar,  
1/37, - 27, Vimala Bhavanam,  
10th Street, Thirukumaran Nagar,  
Palayampatti Road,  
Aruppukottai Nagar and Taluk,  
Virudhunagar District.

... Petitioner

Vs.

1.The Deputy Inspector of General of Police  
Madurai Range,  
Madurai.

2.The Superintendent of Police,  
Virudhunagar District,  
Virudhunagar.

3.The Superintendent of Police,  
Ramanathapuram District,  
Ramanathapuram.

... Respondents



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**Prayer:** To issue a Writ or order or orders very particularly in the nature of Writ of Certiorarified Mandamus to call for the records in pursuant to the impugned orders passed by the first respondent in Na.Ka.No.A1/1779/10389/2016 dated 02.02.2017 and consequential order passed by the second respondent in Na.Ka.No.A1(1)/39736/2016 dated 18.02.2017 and quash the same and directing the respondents to regularize the petitioner's service by granting selection grade and special grade in the cadre of Sub-Inspector of Police from the year 1989 and sanction all consequential monetary benefits to the petitioner and pass such further or other orders.

**Prayer in W.M.P.(MD).No.14336 of 2017:** Writ Miscellaneous Petition is filed praying to dispense with the production of the impugned order passed by the first respondent in Na.Ka.No.A1/1779/10389/2016 dated 02.02.2017.

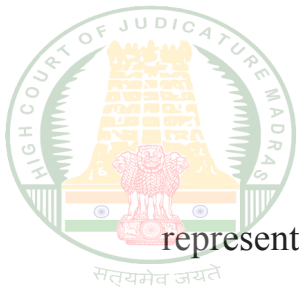
For petitioner : Mr.M.Karthikeya Venkatachalapthy

For Respondents : Mr.J.Ashok,  
Additional Government Pleader.

### **JUDGMENT**

Heard.

2. The Petitioner, as per the affidavit, is currently 77 years old. At the age of 70, he filed this writ petition challenging the order issued by the first Respondent on 02.02.2017. This order was issued in response to a



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representation submitted by the Petitioner on 05.08.2016. The Petitioner sought information under the provisions of the RTI Act, 2005, which led to the issuance of the impugned order. The impugned order is a communication from the first Respondent to the second Respondent.

3. In his affidavit, the Petitioner has not mentioned his activities following his retirement from service on 31.05.2005. The only reference made is to a representation he submitted 11 years after his retirement, requesting the Respondents to regularize his service by granting selection grade and special grade in the cadre of Sub-Inspector of Police, effective from the year 1989.

4. It is important to note that the Hon'ble Supreme Court has deprecated the practice of individuals, long after the cause of action has arisen, submitting representations and subsequently filing writ petitions upon receiving a reply, thereby attempting to revive stale claims. In *C. Jacob v. Director of Geology and Mining*, reported in 2008 (10) SCC 115, the Hon'ble Supreme Court made the following observations:

*"We are constrained to refer to the several facets of the issue only to emphasize the need for circumspection and care in issuing directions for 'consideration'. If the representation is on the face of*



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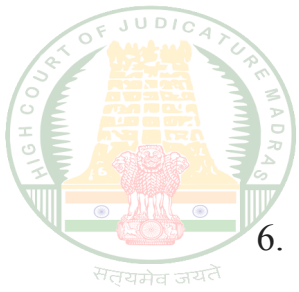


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*it is stale, or does not contain particulars to show that it is regarding a live claim, courts should desist from directing 'consideration' of such claims."*

5. Once again, the Hon'ble Supreme Court, in *Karnataka Power Corporation Ltd. through its Chairman and Managing Director v. K. Thangappan*, reported in 2006 (4) SCC 322, held that merely submitting representations does not justify the entertainment of writ petitions. The Court emphasized that delay and laches are crucial factors to be considered. The relevant observation is as follows:

*"In any event, making a representation is not sufficient for filing a belated writ petition.....Delay or laches is one of the factors which is to be borne in mind by the High Court when they exercise their discretionary powers under Article 226 of the Constitution. In an appropriate case the High Court may refuse to invoke its extraordinary powers if there is such negligence or omission on the part of the applicant to assert his right as taken in conjunction with the lapse of time and other circumstances, causes prejudice to the opposite party."*



6. On this short ground, the writ petition is liable to be dismissed.

However, since the notice was issued in this writ petition on 20.09.2017, the Respondents have entered an appearance. The second Respondent has also filed a counter affidavit dated 28.09.2018. In paragraphs 3 and 4 of the counter affidavit, along with details of the Petitioner's service record, the reasons for denying the requested relief are provided, which are worth reproducing below:

*"3) ...as per the orders issued by the 2nd respondent's office in D.O.No.643/1991, dated 03.06.1991 in C.No.A1/44543/1990, he was moved to selection grade in the category of Head Constable from 27.06.1989 FN. Further, he was moved to selection grade in the category of SI of Police with effect from 06.08.2002 FN vide the orders of the 2nd respondents' office in D.O.No.1327/2003 in C.No. A1/37515/2002, dated: 29.07.2003. He was allowed to retire on superannuation on 31.05.2005. Further, it is submitted that he did not complete 20 years of service in the category of SI of Police and hence he could not be moved to special grade in the category of SI of Police."*

*4) .....Thiru. M. Nallathambi, the applicant, was enlisted as Gr.II.PC on 25.10.1968 FN in erstwhile Ramanathapuram District. He was promoted as Gr.I.PC on 01.12.1971. Thereafter, he was promoted as Head Constable on 09.08.1978. He was promoted*



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*to officiate as Sub-Inspector temporarily from 18.10.1985 FN according to special rules of 10(a) of Tamil Nadu Police Subordinate Services.*

*As per service rules, the ratio for appointment to the category of Sub-Inspector of Police in TNPSS, then was 70:30 basis, between the direct recruitment of Sub-Inspectors of Police and Rank Promote Sub-Inspectors of Police, respectively.*

*Since 1985, no promotion test from Head Constable to SI of Police was conducted due to administrative difficulties, and direct recruitment for SI of Police was also not made after 1977 till 1987, with the result, the vacancies were filled by ordering temporary promotions of Head Constables as Sub-Inspectors of Police. As such the applicant was promoted to Sub-Inspector of Police purely on a temporary basis on 18.10.1985 under special rules of 10(a) of TNPSS and worked continuously as SI of Police from that 18.10.1985. Later, direct recruitment of SI of Police was conducted in 1987 and when the directly recruited SIs joined in May 1989 after completing training, the temporarily promoted SIs of Police were reverted to Head Constables due to a lack of vacancies. As such Thiru. M. Nallathambi, then temporary SI of Police, was also reverted as Head Constable as per orders of the Superintendent of Police, Madurai City, in D.O.No.913/89 in C.No.*



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*AI/14981/1989, dated 08.05.1989 and further, he was moved to the selection grade in the category of Head Constable with effect from 27.06.1989. Further, as per orders of the Deputy Inspector General of Police, Madurai Range, Madurai, in his proceedings C.No.A1/14714/1992-4, (R.O.No.80/1993) dated 22.05.1993 the name of Thiru. M. Nallathambi was included in the 'C' list of HCs/Ty.SIs fit for promotion as SI of Police for the year 1985 at S.No.150. Further, as per orders of the Deputy Inspector General of Police, Ramnad Range, Ramnad, vide proceedings C.No.A1/10746/1992, dated 25.05.1993, he was transferred to Ramnad District upon his promotion as SI of Police on a regular basis with effect from 25.05.1993. Further, as per orders of the Deputy Inspector General of Police, Ramnad Range, Ramnad, in C.No. A1/26051/1997 (R.O.No.38/1998) dated 19.01.1998, he was brought onto "B" list of SIs with effect from 07.08.1992. Hence, his request to regularize his services as Sub-Inspector of Police from the date of his temporary appointment, i.e., 18.10.1985, is not justifiable.*

*Further he was granted all increments in the category of Head Constable until 25.05.1993 including selection grade with effect from 27.06.1989 in the category of Head Constable and also he was moved*



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*to selection grade in the category of Sub-Inspector of Police with effect from 06.08.2002 FN. Hence,, the request for further consequential benefits is not correct."*

8. In view of the above, even on merits, the Petitioner has no valid claim for regularization or the grant of selection grade and special grade in the cadre of Sub-Inspector of Police from the year 1989. In this context, reference may be made to the judgment of the Hon'ble Supreme Court in *Direct Recruit Class-II Engineering Officers Association v. State of Maharashtra*, reported in 1990 (2) SCC 715, wherein the Court observed as follows:

*"(A) Once an incumbent is appointed to a post according to the rule, his seniority has to be counted from the date of his appointment and not according to the date of his confirmation.*

*The corollary of the above rule is that where the initial appointment is only ad hoc and not according to rules and made as a stop-gap arrangement, the officiation in such post cannot be taken into account for considering the seniority."*

9. Hence, both on the grounds of laches and also on merits, W.P.(MD) No. 17786 of 2017 will stand dismissed. However, there will be no



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order as to costs. Consequently, WMP (MD) No. 14336 of 2017 is also

dismissed.

**13.02.2025**

Neutral Case Citation: Yes/No  
Index:Yes/No  
Internet: Yes/No  
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Copy to

- 1.The Deputy Inspector of General of Police  
Madurai Range,  
Madurai.
- 2.The Superintendent of Police,  
Virudhunagar District,  
Virudhunagar.
- 3.The Superintendent of Police,  
Ramanathapuram District,  
Ramanathapuram.



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**A.D.MARIA CLETE,J.**

Shk/av

**Pre-Delivery Judgment made in**  
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**WMP.(MD).No.14336 of 2017**

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