



W.A(MD)No.2721 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 28.04.2025

CORAM :

**THE HONOURABLE MRS.JUSTICE J.NISHA BANU
and
THE HONOURABLE MRS.JUSTICE S.SRIMATHY**

**W.A(MD)No.2721 of 2024
and
C.M.P(MD)No.18810 of 2024**

1.The Director General of Police,
Dr.Radhakrishnan Salai,
Mylapore, Chennai-600 004.

2.The Additional Director General of Police,
Technical Service,
Police Telecommunication Branch,
Dr.Radhakrishnan Salai,
Mylapore, Chennai-600 004.

3.The Deputy Inspector General of Police,
Technical Services,
Police Telecommunication Branch,
Chennai-600 004.

... Appellants

vs.

Thirumurugan

... Respondent

PRAYER : Writ Appeal filed under Clause 15 of the Letters Patent, against the order dated 06.03.2024 made in W.P(MD)No.14334 of 2021.



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For Appellant : Mrs.D.Farjana Ghoushia
Special Government Pleader
For Respondent : Mr.V.Vishnu

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JUDGMENT

(Judgment of the Court was made by **J.NISHA BANU, J.**)

This writ appeal is filed against the order dated 06.03.2024 made in W.P(MD)No.14334 of 2021.

2. The facts leading to the filing of the writ appeal are as follows:

The respondent / writ petitioner participated in the selection process for the post of Sub-Inspector (Technical) conducted by the Tamil Nadu Uniformed Services Recruitment Board (TNUSRB) in the year 2008 and he was successful in the physical and written examinations. However, in the medical examination, he was found 'unfit' on the ground that he is having a defect in colour vision. Therefore, the respondent made a representation seeking second medical examination which was granted and ultimately he was found 'fit' in the second medical test. Thereafter, he was appointed as Sub-Inspector (Technical) vide proceedings dated 30.06.2010. A call letter was sent to the



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respondent for training on 07.07.2010 along with II Batch. After

completion of the training, he was working as Sub-Inspector (Technical).

While so, in the seniority list for the post of Sub-Inspector (Technical)

that was prepared on 25.09.2017, his name was not included even in the

III Batch of 2010, on the ground that he was sent for training later due to

the delay in his appointment as Sub-Inspector (Technical) because of the

first medical report making the respondent 'unfit' for the said post.

Hence, the respondent filed the writ petition for a Mandamus to re-fix

his seniority on par with his batch mates, contending that he was no

way responsible for the first medical report, wherein, he was

disqualified. Since the said medical report was found to be erroneous

one by the Second Medical Board, he is entitled to be included in his

original batch recruited in the year 2010. The Writ Court finding merits

on the contentions of the respondent, allowed the writ petition by

impugned order, against which, the department is on appeal.

3. The core contention of the learned Special Government Pleader appearing for the appellants is that as per Section 40(6) of the Tamil Nadu Government Services (Conditions of Service) Act, 2016,



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application for revision of seniority of a person shall be submitted to the appointing authority within a period of three years from the date of appointment to such service and any application received after the said period of three years shall be summarily rejected. In this case, the respondent who was appointed in 2010, ought to have made application within three years therefrom. However, he has made such application for revision of seniority after a lapse of more than 7 years, as such, the application is time barred one and shall be summarily rejected as per the above said provision. However, the Writ Court has failed to advert to the above provision and erroneously allowed the writ petition. Thus, she would pray for setting aside the impugned order.

4. Learned counsel for the respondent would state that for the delay in conducting medical test, the respondent is not responsible and he cannot be affected by such delay. Once the respondent clears the process of selection and orders of appointment are issued and he was sent for training, the marks secured by him in the examination would be the basis for fixation of seniority. The Writ Court has rightly appreciated the same and has allowed the writ petition. Thus, he would



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pray for dismissal of the appeal. In support of his contention, the

learned counsel would rely upon the common judgment made in

W.A(MD)No.1985 of 2024 etc batch dated 24.04.2025 (K.Muthu and

others vs. Government of Tamil Nadu, Police Department, Chennai and

others).

5. Heard both sides.

6. The only contention raised by the appellants is that application of revision of seniority shall be made within three years from the date of appointment of the respondent. Since he made such application after a lapse of 7 years, it shall be summarily rejected. However, as rightly contended by the learned counsel for the respondent, seniority of the respondent will have to be decided on the basis of the marks obtained by him in the examinations, irrespective of his date of appointment. In this regard, it is relevant to extract below the observations of the Division Bench in K.Muthu's case (supra) cited by the counsel for the respondent:

"23. A perusal of the above observations of the Hon'ble



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Supreme Court makes it abundantly clear that when seniority is made dependent on marks obtained in examination to be conducted after the training. The seniority of all the candidates selected in a particular selection process will have to be decided on the basis of the marks obtained by them in the examinations, irrespective of the date of appointment.

24. These candidates were selected in a particular selection process cannot be split into different batches for the purposes of fixation of seniority. When large recruitments takes place for a large force like the Police Force, it is humanly impossible to conduct training for all the candidates recruited in one selection process at the same time as necessary infrastructure may not be available. Therefore, it becomes imperative that the candidates are divided into batches and sent for training. The delay in training by itself cannot affect the seniority of the candidates, who were selected in the same selection process.

25. Similarly, where some of the candidates selected do not join and a wait list or a reserve list is operated and those vacancies are filled up by the candidates in the reserved list or the wait list, there is bound to be certain delay and the Hon'ble Supreme Court in A.Raghu vs. Government of Andhra Pradesh and others, reported in (2015) 14 SCC 221, had specifically dealt with such situation and has held that de hors such delay, the seniority of the candidates will be determined only by the marks obtained in the examinations conducted after the training in view of the specific rules. We must, at this juncture, point out that proviso to Rule 25 (a) of the Special Rules for Tamil Nadu Police Subordinate Service, is in pari



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materia with Rule 15(b) of the Andhra Pradesh Police (Civil) Subordinate Service Rules. 1959.

26. In the cases on hand either there was an erroneous rejection of the candidature of the appellants or there was a delay in conducting the medical test. The candidates were not responsible in both the cases. Therefore, they cannot be affected by such delay. Once they clear the process of selection and orders of appointment are issued and they are sent for training, the marks secured by them in the examination conducted after training would be the basis for fixation of seniority. Therefore, all the appellants would be entitled to the seniority as per the marks obtained by them in the examination conducted after completion of the training in the Police Training College, de hors the dates of appointment.'

7. In view of the said judgment, we do not find any infirmity in the order impugned passed by the Writ Court.

8. Accordingly, the Writ Appeal is dismissed. No costs. Connected miscellaneous petition is closed.

[J.N.B, J.] [S.S.Y, J.]
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J.NISHA BANU, J.
AND
S.SRIMATHY, J.

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To

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JUDGMENT MADE IN
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