

**(2011) 11 MAD CK 0068**

**Madras High Court**

**Case No:** Writ Petition No. 9319 of 2007

M. Arivazhagan

APPELLANT

Vs

Inspector General of Police  
Armed Police, K.K. Nagar,  
Trichirapalli and Commandant,  
Tamil Nadu Special Police I  
Battalion Trichirapalli-2

RESPONDENT

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**Date of Decision:** Nov. 23, 2011

**Hon'ble Judges:** D. Hariparanthaman, J

**Bench:** Single Bench

**Advocate:** Ravi Shanmugam for M/s. Sudha Ravi Associates, for the Appellant; V. Subbiah  
Special Govt. Pleader, for the Respondent

**Final Decision:** Allowed

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### **Judgement**

@JUDGMENTTAG-ORDER

Honourable Mr. Justice D. Hariparanthaman

1. On 26.12.1985, the petitioner was appointed as Grade II Police Constable in Tamil Nadu Special Police Battalion. In 1990, he was promoted as Lance Naik. The next avenue of promotion to Lance Naik is Havildar. He relinquished promotion for the post of Havildar. Hence his name was deleted from the promotion list in March, 1992.

2. On representation by the petitioner, the relinquishment of promotion was cancelled by an order dated 28.3.1994 by the second respondent. But his seniority was not restored.

3. Hence the petitioner was forced to file O.A.No.1784/1998 before the Tamil Nadu Administrative Tribunal seeking to restore his seniority and to promote him as Havildar. The Tribunal allowed the Original Application on 7.12.2001. The order was complied with and his seniority was restored by order of the second respondent,

dated 25.2.2002.

4. Though the petitioner was included in the panel of Naik fit for promotion for Havildar for the year 1997-1998, he was not given temporary promotion to the post of Sub Inspector of Police, while his juniors were given temporary promotion as Sub Inspectors on 12.1.2001. Hence he filed O.A.No.5858/2002 (W.P.No.9319/2007) seeking for direction to promote him as temporary Sub Inspector from the date on which his juniors were promoted.

5. The respondents filed counter affidavit refuting the allegations.

6. Heard both sides.

7. It is relevant to note that it is admitted in para 7 of the counter affidavit that the second respondent recommended to the first respondent to promote the petitioner as temporary Sub Inspector, since his juniors were promoted as temporary Sub Inspectors. Para 7 of the counter affidavit is extracted as under in this regard.

7. It is correct that the seniority of the applicant in the category of Havildar was restored in this office order B.O.No. 172/2002 (C.No. A1/792/01) dt. 25-02-2002 as per the direction issued by the Hon"ble Tribunal on the Original Application No.1784/1998 dt. 07-12-2001 filed by the applicant and his name was placed in the "C" list of Naiks fit for promotion as Havildar drawn in the year 1997-98 in Sl.No.7(A) and also a proposal was sent to the first respondent (i.e., Inspector General of Police, Armed Police, Trichy) requesting to promote applicant as Temporary Sub Inspector, since his juniors were acting as Temporary Sub Inspector.

8. In fact, the said recommendation is enclosed in the typed set filed by the petitioner. But the petitioner was not granted temporary promotion as Sub Inspector of Police on the ground that the first respondent passed an order dated 27.6.2002 that the petitioner did not pass the required test for the promotion to the post of Sub Inspector.

9. I am not in agreement with the reason given by the first respondent in the order dated 27.6.2002. It is a different matter if the petitioner wanted regular promotion. In that case, he should have passed test to seek promotion. But he wanted the same promotion as given to others including his juniors. By an order dated 12.1.2001, 130 Havildars were promoted as temporary Sub Inspectors, though none of them passed the test. They were promoted merely based on seniority. The same yardstick should have been applied in the case of the petitioner also. It is stated that those persons are all continuing as temporary Sub Inspectors even today and are receiving higher emoluments. But the petitioner alone was deprived of higher status and higher emoluments as given to his juniors and colleagues.

10. In these circumstances, the writ petition is allowed and a direction is issued to the respondents to promote the petitioner as temporary Sub Inspector with effect from 12.1.2001 as done in the case of others on notional basis. The respondents are

also directed to undertake the said exercise within a period of eight weeks from the date of receipt of copy of this Order. No costs.