

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 15th DAY OF OCTOBER, 2025

PRESENT

THE HON'BLE MR. JUSTICE D K SINGH

AND

THE HON'BLE MR. JUSTICE VENKATESH NAIK T

WRIT PETITION NO. 8224 OF 2025 (S-KSAT)



BETWEEN:

1. SRI.SHARANABASAPPA H.SUBEDAR
S/O LATE HANUMANTH RAO,
AGED ABOUT 54 YEARS,
PRESENTLY WORKING AS DEPUTY
SUPERINTENDENT OF POLICE,
GULBURGA ELECTRICITY SUPPLY
COMPANY LIMITED (VIGILANCE),
KALABURAGI 585 103.
RESIDING AT NO. 1/949/18/1/68,
RING ROAD, RAM MANDIR, TILAK NAGAR,
KALBURGI 585 102.
2. SRI. K. BASAVARAJ,
S/O. LATE LAKSHMANRAO,
AGED ABOUT 51 YEARS,
PRESENTLY WORKING AS DEPUTY
SUPERINTENDENT OF POLICE,
INTERNAL SECURITY DIVISION,
KALABURAGI 585 105.
RESIDING AT NO. 17-4-9/11,
NEW KEB COLONY, MANHALLI ROAD,
BIDAR 585 403.
3. SRI. BASAVESHWAR,
S/O. MALLINATH HIRA,
AGED ABOUT 53 YEARS,
PRESENTLY WORKING AS DEPUTY
SUPERINTENDENT OF POLICE,
CYBER, ECONOMICS AND NARCOTICS
CRIME POLICE STATION,



KALABURAGI 585 102.
RESIDING AT RUDRAWADI POST,
ALANDA TALUK, KALBURGI 585 314.

4. SRI. PRABHU D. T.,
S/O LATE DEVAPPA,
AGED ABOUT 51 YEARS,
PRESENTLY WORKING AS DEPUTY
SUPERINTENDENT OF POLICE,
UDUPI SUB DIVISION, UDUPI 576 101.
RESIDING AT DOOR NO. 5 167,
KMS BUILDING, BESIDE PRANAV HOSPITAL,
HANDADI, BRAHMAVARA,
UDUPI 576 213.
5. SRI. MAHESHWARGOUDA,
S/O. LATE SIDDANAGOUDA,
AGED ABOUT 52 YEARS,
DEPUTY SUPERINTENDENT OF POLICE,
DCRE POLICE STATION, BANGALORE EAST,
SHANTHI NAGARA, BMTc COMPLEX,
BANGALORE 560 027.
PERMANENTLY RESIDING AT NANDI NAGARA,
KOPAL TALUK AND DISTRICT 583 231.
6. SRI. VISHWANATH KULKARNI,
S/O. LATE GIRIMAJI RAO KULKARNI,
AGED ABOUT 47 YEARS,
WORKING AS DEPUTY SUPERINTENDENT OF POLICE,
HUNAGUND SUB DIVISION,
BAGALKOTE DISTRICT,
BAGALOKOT 560 073.
RESIDING AT OFFICIAL QUARTERS,
DEPUTY SUPERINTENDENT OF POLICE,
HUNAGUND SUB DIVISION,
BAGALKOTE DISTRICT,
BAGALOKOT 560 073.
7. SRI. MALLESH DODDAMANI,
S/O. FAKKIRA NAIK,
AGED ABOUT 48 YEARS,
PRESENTLY WORKING AS DEPUTY
SUPERINTENDENT OF POLICE,
KUDLIGI SUB DIVISION,

VIJAYANAGARA DISTRICT 583 135.
RESIDING AT OFFICIAL QUARTERS,
DEPUTY SUPERINTENDENT OF POLICE,
KUDLIGI SUB DIVISION,
VIJAYANAGARA DISTRICT 583 135.

8. SRI. H. S. MARULI,
S/O. SRINIVASIAH,
AGED ABOUT 54 YEARS,
WORKING AS DEPUTY SUPERINTENDENT OF POLICE,
PRESENTLY UNDER AN ORDER OF POSTING TO
STATE INTELLIGENCE,
NRUPATUNGA ROAD,
BANGALORE 560 001
PERMANENTLY RESIDING AT LV 59,
ZUARI GARDEN CITY,
HULIKERE VILLAGE,
KRS MAIN ROAD, SRIRANGAPATNA TALUK,
MANDYA DISTRICT 571 438.
9. SRI. P. RAVIPRASAD,
S/O. LATE K. PRABHUDEVA,
AGED ABOUT 52 YEARS,
PRESENTLY WORKING AS ASSISTANT
COMMISSIONER OF POLICE,
VIJAYANAGARA SUB DIVISION,
MYSORE 570 030.
PERMANENTLY RESIDING AT MB 504,
GOLDEN GRAND APARTMENT,
TUMKUR ROAD, YESHWANTHPURA,
BANGALORE 560 022.
10. SRI. SHEELAVANTHA HOSAMANI,
S/O. SANNABALAPPA,
AGED ABOUT 52 YEARS,
PRESENTLY WORKING AS DEPUTY
SUPERINTENDENT OF POLICE,
KARNATAKA LOKAYUKTHA,
HOSPETE , VIJAYANAGARA DISTRICT 583 225.
PERMANENTLY RESIDING NO. NO. 100,
GUBBI COLONY, KALABURGI 585 105.

...PETITIONERS

(BY SRI. M.S.BHAGWAT, SENIOR COUNSEL FOR
SRI. SATISH.K, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
REPRESENTED BY ITS ADDITIONAL CHIEF
SECRETARY,
HOME DEPARTMENT, VIDHANA SOUDHA,
BENGALURU 560 001.
2. THE DIRECTOR GENERAL AND INSPECTOR
GENERAL OF POLICE,
STATE OF KARNATAKA,
NRUPATHUNGA ROAD,
BENGALURU 560 002.
3. SMT. ANUSHA G,
D/O. GANESHA K S,
AGED ABOUT 33 YEARS,
DEPUTY SUPERINTENDENT OF POLICE,
BANGALORE ELECTRICITY SUPPLY
COMPANY LIMITED (VIGILANCE), CRESCENT ROAD,
BNGALURU 560 001.
RESIDING AT NO. 138, 4TH MAIN,
NARAMMA ASHRAMA, JNANABHARATHI POST,
BENGALURU 560 056.
4. SRI. MANOJ KUMAR M.E,
S/O. M. A. EREGOWDA,
AGED ABOUT 38 YEARS,
ASSISTANT COMMISSIONER OF POLICE,
JC NAGAR SUB DIVISION,
R.T NAGAR MAIN ROAD,
BENGALURU 560 032.
RESIDING AT NO. A310, G CORPS,
MAHALAKSHMI APARTMENT,
BLOCK-C, SAHAKARA NAGAR,
BENGALURU 560 092.
5. SRI. CHANDAN KUMAR N,
S/O. NEELAKANTA H,
AGED ABOUT 40 YEARS,
ASSISTANT COMMISSIONER OF POLICE,
VIJAYANAGAR SUB DIVISION,
WEST OF CHORD ROAD, 1ST STAGE,

BASAVESHWARANAGAR,
BENGALURU 560 079.
RESIDING AT NO. 04,
1ST FLOOR, AMULYA CHANDRA ENCLAVE,
9TH MAIN, JUDICIAL LAYOUT,
YELAHANKA HOBLI, BENGALURU 560 065.

6. SRI. PAVAN N.,
S/O. NAGARAJAIAH T C,
AGED ABOUT 36 YEARS,
ASSISTANT COMMISSIONER OF POLICE,
SUBRAMANYAPURA SUB DIVISION,
KUMARASWAMY LAYOUT POLICE STATION,
BENGALURU 560 078.
RESIDING AT NO. 47, SHIVALAYA,
2ND CROSS, 6TH MAIN,
7TH BLOCK, NAGARABAVI 2ND STAGE,
BENGALURU 560 072.
7. SRI. OMPRAKASH T. A,
S/O. ANJANNAPPA T P,
AGED ABOUT 38 YEARS,
PRESENTLY WORKING AS DEPUTY
SUPERINTENDENT OF POLICE,
KUNIGAL SUB DIVISION,
TUMKUR DISTRICT 572 130.
RESIDING AT NO. 13,
TARAHUNASE VILLAGE AND POST,
JALA HOBLI, BENGALURU NORTH TALUK,
BENGALURU 562 157.
8. SMT. PRIYADARSHINI ISHWAR SANIKOP,
D/O. ISHWAR MALLAPPA SANIKOP,
AGED ABOUT 36 YEARS,
PRESENTLY WORKING AS ASSISTANT
COMMISSIONER OF POLICE,
MARATHAHALLI SUB DIVISION,
BANGALORE CITY 560 037,
RESIDING AT MALLIKARJUNA NILAYA,
RAMANAGARA, 2ND MAIN,
NEAR NTTF, DHARWAD 580 001.
9. SRI. JAWEED INAMDAR,
S/O. WAJER BEGH INAMDHAR,

AGED ABOUT 38 YEARS,
WORKING AS DEPUTY SUPERINTENDENT OF POLICE,
SHORAPUR SUB DIVISION,
YADAGIRI DISTRICT 585 220.
RESIDING AT SHEGUNASHI POST,
BABALESHWAR TALUK,
VIJAYAPUR 586 125.

10. SRI. BHARATH S. REDDY,
S/O. T SRIRAMIAH,
AGED ABOUT 38 YEARS,
PRESENTLY WORKING AS ASSISTANT
COMMISSIONER OF POLICE,
BYATARAYANAPURA SUB DIVISION,
BENGALURU 560 092.
RESIDING AT NO. 928/787/1,
SANJEEVAPPA MAIN ROAD,
CHIKKABOMMASANDRA, YELAHANKA NEW TOWN,
BENGALURU 560 065.
11. SRI. JAGADEESHA K. S,
S/O. SADASHIVAIAH B,
AGED ABOUT 43 YEARS,
PRESENTLY WORKING AS DEPUTY
SUPERINTENDENT OF POLICE,
NELAMANGALA SUB DIVISION,
BENGALURU RURAL DISTRICT 562 123.
RESIDING AT KARNAKUPPE VILLAGE,
NIDAVALLU POST, HEBBUR HOBLI,
TUMAKURU TALUK, TUMAKUR 572 120.
12. SMT. TABARAQ FATHIMA,
D/O. S IKRAMULLAH MAHAMOOD,
AGED ABOUT 37 YEARS,
DEPUTY SUPERINTENDENT OF POLICE,
CID, CARLTON HOUSE,
49, PALACE ROAD, RACE COURSE,
GANDHINAGAR, BENGALURU 560 001.
RESIDING AT NO. 8, GROUND FLOOR,
4TH MAIN, HEBBAL BINNY ROAD,
GANGANAGAR, RT NAGAR POST,
BENGALURU 560 032.
13. DR. GANA P KUMAR,

D/O. PRASANNA KUMAR,
AGED ABOUT 36 YEARS,
PRESENTLY WORKING AS DEPUTY
SUPERINTENDENT OF POLICE,
KARNATAKA LOKAYUKTHA,
DAKSHINA KANNADA 575 006.
RESIDING AT NO. 306,
DOLLARS COMFORT APARTMENT,
1ST CROSS, 1ST MAIN, RMV 2ND STAGE,
NAGASHETTIHALLI VILLAGE,
SANJAYNAGARA, BENGALURU 560 094.

14. SRI. SHIVANAND KATAGI,
S/O. KALLAPPA KATAGI
AGED ABOUT 37 YEARS,
PRESENTLY WORKING AS DEPUTY
SUPERINTENDENT OF POLICE,
CEN, POLICE STATION,
DHARWAD DISTRICT 580 008.
RESIDING AT BAILUR POST,
CHENNAMMANA KITTUR TALUK,
BELAGAVI DISTRICT 591 115.
15. SRI. PRASHANT G MUNNOLLI,
S/O. GURUSIDDA B MUNNOLLI,
AGED ABOUT 40 YEARS,
PRESENTLY WORKING AS DEPUTY
SUPERINTENDENT OF POLICE,
ATHANI SUB DIVISION,
BELAGAVI DISTRICT 591 304.
RESIDING AT BASAVA NILAYA,
KANCHAVEERA NAGARA, MUTAGI EXTENSION,
BELAGAVI 591 124.
16. SRI. SHIVANAND N MADARAKHANDI,
S/O. NANDABASAPPA,
AGED ABOUT 41 YEARS,
PRESENTLY WORKING AS DEPUTY
SUPERINTENDENT OF POLICE,
DANDELI SUB DIVISION,
UTTARA KANNADA DISTRICT 581 325.
RESIDING AT UKKALI POST,
BASAVANABAGEWADI TALUK,
VIJAYAPUR DISTRICT 586 102.

17. SRI. NARASIMHA V. TAMRADHWAJA,
FATHER S NAME NOT KNOWN TO THE
PETITIONERS,
AGED ABOUT 34 YEARS,
PRESENTLY WORKING AS DEPUTY
SUPERINTENDENT OF POLICE,
ASSISTANT DIRECTOR,
KARNATAKA POLICE ACADEMY, MYSURU 570 019.
RESIDING AT POST MALANAYAKANAHALLI,
RANEBENNUR TALUK,
HAVERI DISTRICT 581 119.
18. SRI. PRAVEEN M, S/O MANJANNA
AGED ABOUT 39 YEARS,
WORKING AS DEPUTY SUPERINTENDENT OF POLICE,
MAGADI SUB DIVISION,
DANUSH BUILDING, TAVAREKERE TOWN,
BENGALURU 562 130.
RESIDING AT PARVATHAIAHANA PALYA,
SONDEKOPPA POST, DASANAPURA HOBLI,
BENGALURU NORTH TALUK,
BENGALURU 562 130.
19. SRI. UMASHANKAR M. H,
S/O. HANUMANTHAPPA M. K,
AGED ABOUT 41 YEARS,
WORKING AS ASSISTANT
COMMISSIONER OF POLICE,
BANASAWADI SUB DIVISION,
BENGALURU 560 043.
RESIDING AT NO. VA016,
PRUKSHA VILLA S NIMBEKAIPUR,
BENGALURU EAST 560 049.
20. SRI. SHANTHAVEERA. E,
S/O. ERAPPA,
AGED ABOUT 42 YEARS,
PRESENTLY WORKING AS DEPUTY
SUPERINTENDENT OF POLICE,
STATE INTELLIGENCE BRANCH,
BENGALURU 560 001.
RESIDING AT MATRUSHI NILAYA,
NEAR SAJJE HANUMAN TEMPLE,

JAMAKHANDI 587 301.

21. SRI. MANOJ KUMAR NAIK,
S/O. DHANSINGH NAIK,
AGED ABOUT 38 YEARS,
PRESENTLY WORKING AS ASSISTANT
COMMISSIONER OF POLICE,
CENTRAL CRIME BRANCH,
MANGALURU CITY 575 001
RESIDING AT TEACHERS COLONY,
ROPPA POST, PAVAGADA TALUK,
TUMAKURU 561 202.
22. SRI. REENA SUVARNA. N,
W/O. RAGHAVENDRA S,
AGED ABOUT 40 YEARS,
PRESENTLY WORKING AS ASSISTANT
COMMISSIONER OF POLICE,
WHITE FIELD SUB DIVISION,
BANGALORE 560 036
RESIDING AT NO. 125,GAYATHRI NILAYA
11TH CROSS, 1ST MAIN,
BCC HBSC LAYOUT, CHANDRA LAYOUT,
BENGALURU CITY 560 040.
23. SRI. RAVI D NAIK,
S/O. D V NAIK,
AGED ABOUT 52 YEARS,
DEPUTY SUPERINTENDENT OF POLICE,
BAILAHONGAL SUB DIVISION,
BELAGAVI DISTRICT 591 102.
RESIDING AT POLICE QUARTERS,
NEAR BAILAHONGAL POLICE STATION,
BAILAHONGAL TALUK 591 102.
24. SRI. GOPI B. R,
S/O. RAJA NAIK,
AGED ABOUT 45 YEARS,
DEPUTY SUPERINTENDENT OF POLICE,
ALAND SUB DIVISION,
KALABURAGI DISTRICT 585 302.
RESIDING BEHIND BALAJI TALKIES,
HULIYAR HOBLI AND POST,
CHIKKANAYAKANAHALLI TALUK,

TUMAKUR 572 218.

25. DR. SANTHOSH K. M,
S/O. SOMASHEKARAIHAH K. M,
AGED ABOUT 40 YEARS,
PRESENTLY WORKING AS DEPUTY
SUPERINTENDENT OF POLICE,
CBI GANGANAGAR,
BANGALORE 560 032.
RESIDING AT NO. 1048, SRI GURU SAANIDHYA,
NEAR LOLASHANTHESWARA HIGH SCHOOL,
BASAVESHWARANAGAR, KOTTUR,
VIJAYANAGAR DISTRICT 583 134.
26. SRI. MALLIKARJUN SALI,
S/O. SIDDAPPA SALI,
AGED ABOUT 39 YEARS,
WORKING AS DEPUTY SUPERINTENDENT OF POLICE,
OFFICE OF THE INSPECTOR GENERAL OF POLICE,
WESTERN RANGE,
MANGALURU 575 001.
RESIDING AT KALLAHANGARGA POST,
JEWARGI TALUK,
KALANURAGI 585 310.
27. SRI. SHARANAPPA,
S/O. KUNTAPPA,
AGED ABOUT 46 YEARS,
WORKING AS ASSISTANT COMMISSIONER OF
POLICE,
TT AND RSI, R K HEGDE NAGAR,
BENGALURU 560 077.
RESIDING AT JAYAMAHAL EXTENSION,
BENGALURU 570 006.
28. SRI. VENKATESH,
S/O. LATE AYYAPPA,
AGED ABOUT 44 YEARS,
WORKING AS DEPUTY SUPERINTENDENT OF POLICE,
SIRAGUPPA SUB DIVISION,
BALLARI DISTRICT 583 103.
RESIDING AT SIDDAMMA NIVASA,
BAPPURU ROAD, SINDHANUR,
RAICHUR DISTRICT 584 128.

29. SRI. THIRUMALLESH,
S/O. I T JAMBANNA,
AGED ABOUT 51 YEARS,
WORKING AS DEPUTY SUPERINTENDENT OF POLICE,
KARNATAKA LOKAYUKTHA,
VIJAYANAGAR, CHIKKAMAGALURU 577 138.
30. SRI. MAHADEVAPPA H M,
FATHER S NAME NOT KNOW TO THE PETITIONERS,
MAJOR,
WORKING AS DEPUTY SUPERINTENDENT OF POLICE,
DCRE POLICE STATION,
OFFICE OF ADDITIONAL DIRECTOR
GENERAL OF POLICE,
BENGALURU URBAN, BENGALURU 560 001.
...RESPONDENTS

(BY SRI. SUDEV HEGDE, AGA FOR R-1 & R-2;
SRI.P.S.RAJAGOPAL, SENIOR COUNSEL FOR
SRI. B.O.ANIL KUMAR, ADVOCATE FOR R-3 TO R-8;
VIDE ORDER DATED:17.04.2025 SERVICE OF NOTICE TO
R-29 AND R-30 IS DISPENSED WITH)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226
AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO CALL
FOR RECORDS FROM THE HON'BLE KSAT BANGALORE IN
RESPECT OF IMPUGNED ORDER DATED 06.02.2025 PASSED IN
A.No-5238-5263/2023 (ANNEXURE-A), ETC.

THIS PETITION HAVING BEEN HEARD AND RESERVED
FOR ORDERS ON 09.09.2025, COMING ON FOR
PRONOUNCEMENT THIS DAY, **D K SINGH J.**, PRONOUNCED
THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE D K SINGH
and
HON'BLE MR. JUSTICE VENKATESH NAIK T

CAV ORDER

(PER: HON'BLE MR. JUSTICE D K SINGH)

The present writ petition has been filed by the promotees to the Cadre of the Deputy Superintendent of Police (for short, 'DySP') impugning the judgment and order dated 06.02.2025 passed by the Karnataka State Administrative Tribunal (for short, 'the KSAT'), Bengaluru in Application Nos.5238-5263/2023 filed by respondent Nos.3 to 28, the direct recruitees of DySP of 2017 batch.

2. The DySP(s) had challenged the final seniority list of cadre of DySP(s) dated 07.03.2022 on the ground that the promoted DySP(s) recruited from the cadre of Inspector of Police (Civil) had been promoted in excess of their promotional quota. The challenge was also made on the ground that the impugned seniority list dated 07.03.2022 was prepared in violation of the Government Orders dated 05.07.1976 and 14.12.1987. The recruitment and services of the DySP(s) are governed under the Karnataka Gazetted Probationers (Appointment by Competitive Examination) Rules, 1977. In the cadre of

DySP(s) (Civil), 20% of the vacancies are to be filled by direct recruitment and 80% by promotion from the cadre of Inspector of Police (Civil). Upto the year 2004 the ratio of direct recruitment and promotion was 33 1/3 and 66 2/3.

3. The Supreme Court in the case of **V.B.Badami and Another Vs. State of Mysore and Others** reported in **(1976) 2 SCC 901** had dealt with the question of fixing the seniority between direct recruits and promotees and held that the appointment in excess of quotas prescribed would not bestow seniority. The seniority is to be reckoned on confirmation only in the substantive vacancy; temporary promotion to vacancy is reserved for the other groups. Considering the provisions of the Mysore Administrative Service (recruitment), Rules, 1957 framed under Article 309 of the Constitution of India, working out the quota rule between the direct recruits and promotees, the Supreme Court enunciated five principles namely:

- i. Where the rules prescribe quota between direct recruits and promotees, confirmation or

substantive appointment can only be in respect of clear vacancies in the permanent strength of the cadre.

ii. Confirmed persons are senior to those who are officiating.

iii. As between persons appointed in officiating capacity, seniority is to be counted on the length of continuous service.

iv. Direct recruitment is possible only by competitive examination, which is the prescribed procedure under the rules. In promotional vacancies, the promotion is either by selection or on the principle of seniority-cum-merit. A promotion could be made in respect of a temporary post or for a specified period but a direct recruitment has generally to be made only in respect of clear permanent vacancy either existing or anticipated to arise at or about the period of probation is expected to be completed.

v. If promotions are made to vacancies in excess of the promotional quota, the promotions

may not be totally illegal but would be irregular. The promotees cannot claim any right to hold the promotional posts unless the vacancies fall within their quota. If the promotees occupy any vacancies which are within the quota of direct recruits, when direct recruitment takes place, the direct recruits will occupy the vacancies within their quota. The promotees who were occupying the vacancies within the quota of direct recruits will either be reverted or they will be absorbed in the vacancies within their quota in the facts and circumstances of a case.

4. The Supreme Court further held that the important principle is that as long as the quota rule remains, neither promotees can be allotted to any of the substantive vacancies of the quota of direct recruits nor direct recruits can be allotted to promotional vacancies.

5. In view of the aforesaid judgment of the Supreme Court in the case of **V. B. Badami** (*supra*) the Government promulgated the Government order dated 05.07.1976 for the purpose of classifying and calculating

the vacancies between direct recruits and promotees, which would be on the basis of the quota fixed in the Cadre and Recruitment Rules. The course of the period which will form a block period will be from the date of commencement of the Cadre and Recruitment Rules to the date on which the direct recruits were first appointed, unless in the meanwhile there was any amendment to the Rules. In that case, the block period will commence from the date of commencement of the Rules to the date of amendment and thereafter from the date of amendment to the date of recruitment of direct recruits, and vacancies in both the blocks will have to be taken into account. The vacancies that arise in a block period should be allocated to the direct recruits and the promotees as per the quota prescribed under the statutory prescription and if any excess promotion during the block period is made, the excess promotees should have to be accommodated within the next block period below the direct recruits.

6. The Supreme Court in the case of **GONAL BIHIMAPPA Vs. STATE of KARNATAKA AND OTHERS** reported in 1987(SUPP) SCC 207 held that the seniority and promotion of the direct recruits and promotees are to be strictly observed. Where recruitment is from two sources to a service, a quota rule can be applied fixing the limits of recruitment from the two sources. The quota rule has to be strictly enforced and it is not open to the authorities to meddle on the ground of administrative exigencies.

7. The Supreme Court was considering the Mysore Administrative Service (Recruitment) Rules, 1957, which remained operative till 1977 and the Mysore Recruitment of Gazetted Probationers Rules, 1959 as well as the Karnataka Government Gazetted Probationers Posts (Appointment by Competitive Examination) Rules, 1966. Rule 3(3) of the Karnataka Administrative Service (Recruitment) (Amendment) Rules, 1977, was also under consideration. The Supreme Court reiterated the principles laid down in the **V.B.Badami** case (*supra*). Paragraphs 19

and 30 of the said judgment which are relevant are extracted hereunder:

"19. The sixth contention was that the respondents were appointed on temporary basis with effect from October 26, 1962 against temporary posts created for them and they could not claim seniority to appellants for these reasons. Under Rule 5 of the Mysore Government Servants Probation Rules, 1957 the probationers are deemed to have satisfactorily completed their probation on the issue of an order to that effect. The respondents who were confirmed in substantive vacancies could be confirmed only in vacancies which might exist or arise after October 26, 1964 and not earlier. The respondents were confirmed against substantive vacancies which arose from September 12, 1960 onwards. Both the 1957 Recruitment Rules and the 1959 Probationers Rules contemplate observance of quota rule at the time of appointment and promotion. The question of enforcement of quota rules does not apply at the time of confirmation. The quota rule will only apply when the vacancies are filled up either by direct recruitment or promotion. The appellants are promoted prior to the direct recruitment of the respondents, and therefore, they are entitled to claim seniority.

30. The quota between promotees and direct recruits is to be fixed with reference to the permanent strength of 135 junior duty posts. Persons who were allotted the junior duty posts under the States Reorganisation Act are to be accommodated within the

permanent cadre strength of 135 posts. If they are in excess of the number then the excess will have to be accommodated in the promotional vacancies during the subsequent period commencing from December 2, 1957 to September 10, 1959."

8. After the judgment in the case of **GONAL BIHIMAPPA** (*supra*), the State Government issued Official Memorandum bearing No.DPAR 43 SSR 87 dated 14.12.1987. After respondent Nos.3 to 28 were appointed through competitive examination against the direct recruitment posts in the cadre of DySP(s), the Government published the provisional seniority list of the DySP(s) on 30.11.2017. Respondent Nos.3 to 28 were shown in block period-32. According to respondent Nos.3 to 28, in the previous block period - 31, there were 25 excess promotees who were appointed/promoted against the direct recruitment quota post and at the end of 32nd block period, the said excess was increased to 42.

9. The State Government again published the seniority list dated 03.07.2019 of the cadre of the Superintendent of Police of Karnataka. According to the respondents, though the Government had shown 22 block

periods from 05.02.1977 to 17.04.2018, but it did not show the number of vacancies that had occurred during these block periods and the allocation of vacancies for direct recruitment and promotion. Without disclosing the required details, the Government prepared the seniority list.

10. On 28.07.2020, the Government published the provisional seniority list of the cadre of DySP(s) for the period from 05.02.1997 to 17.04.2018. Thereafter, on 05.08.2021, the final seniority list was published. Again on 21.07.2022, the Government had published the provisional seniority list of the cadre of DySP(s) without taking into consideration the vacancies in each block period of the respective quota. In the provisional seniority list, the Government had taken the block period from one direct recruitment to another direct recruitment, and all the persons who had been promoted during the said block period and the persons who were directly recruited were shown in the seniority list without considering the excess promotion of the promotees. Some of the private

respondents have filed objections to the provisional seniority list dated 27.01.2022 stating that the promotion made in excess of the quota cannot be given seniority over and above the direct recruits and the excess promotions made in the respective block periods were to be brought down when the subsequent direct recruitment took place. Without considering the said objection, the Government had published the final seniority list on 07.03.2022 and the said seniority list came to be challenged before the KSAT. After considering the material on record and the submission advanced by the learned Additional Advocate General appearing for the State, who admitted that there were certain discrepancies in the vacancy register which had been maintained, the Tribunal has passed the impugned order and allowed the application filed by respondent Nos.3 to 28 and quashed the final seniority list dated 07.03.2022 with a direction to the State to consider the objections raised by the direct recruits and re-do the seniority list in accordance with the guidelines issued in the Official Memorandum dated 05.07.1976 and

14.12.1987. The Government authorities have also been directed to publish blockwise vacancy position w.e.f 2012 along with revised vacancy in the each category of promotion and direct recruitments quota. The authorities were also directed not to issue any promotion from the cadre of Deputy Superintendent of Police to Superintendent of Police on the basis of the impugned seniority list dated 07.03.2022.

11. As per the Government order dated 09.10.2020, total cadre strength of DySP(s) is 423 out of which, 60 are reserved for Hyderabad-Karnataka and 363 post for non Hyderabad-Karnataka. The blockwise vacancies till 2012 were settled in terms of the direction of the Tribunal in A.Nos.4382-4385/2011, 6445-6450/2011 and 6653 and 6656/2011 decided on 10.08.2012.

12. It may also be taken note of that 50 temporary posts were created by the order dated 18.04.2007 for a period of one year. These 50 posts ceased to exist on 17.04.2008. However, these 50 posts are considered as permanent vacancies in the vacancy register.

13. Learned Senior Counsel appearing for the petitioners has submitted that as respondent Nos.3 to 28 did not question the seniority list dated 05.08.2021, (Annexure-A8) it would not be open for them to question the subsequent seniority list dated 07.03.2023. It is further submitted that under Rule 10 of the Karnataka Government Servants' (Seniority) Rules, 1957, the Government has no power to revise the seniority and it can only update as held by this Court in the case of **Ramaswamy G.T. & Ors Vs. State of Karnataka & Ors** reported in **(1986) 1 Kant LJ 1**.

14. Learned Senior Counsel for the petitioners has submitted that the petitioners were promoted as DySP(s) much anterior to the private respondents (3 to 28) entered the cadre by direct recruitment. As the private respondents never questioned the promotions of the petitioners, they cannot question the seniority of these promotee officers. Learned Senior Counsel further submitted that the cardinal principle of Seniority from the

date of substantive appointment has been taken into consideration by the Tribunal while passing the impugned order and therefore, the impugned order is unsustainable in law and is liable to be set aside. Learned Senior Counsel has further submitted that though the application for condonation of delay was filed by the respondents along with Application Nos.5238-5263/2023, however, the Tribunal, without condoning the delay, has passed the impugned order. Therefore, this impugned order is vitiated in law and on this ground alone, it requires to be set aside. Condonation of delay is a precondition for the Court to exercise jurisdiction. If the application was not on time as per the provisions of the Administrative Tribunal Act and was not decided condoning the delay, it goes to the root of the matter and the order impugned becomes unsustainable.

15. Learned Senior Counsel for the petitioners has submitted that once the seniority list has attained finality, subsequently, it cannot be tilted with or challenged. In

support of the said submission, he has placed reliance on the following Judgments:

- i. **Ramaswamy G. T. & Ors Vs. State of Karnataka and Ors** reported in **1985 SCC OnLine Kar 407**.
- ii. **Malcom Lawrence Cecil D'Souza Vs. Union of India and Ors.** reported in **(1976) 1 SCC 599**.
- iii. **V.Vincent Velankanni Vs. The Union of India and others** reported in **2024 SCC OnLine Sc 2642**.
- iv. **M Rame Gowda and Others Vs. The State of Karnataka and others** decided on 17.03.2025 in **W.P.No.9552/2023**.

16. Learned Senior Counsel has further submitted that once a promotion has attained the finality, the seniority attached thereto cannot be unsettled, unless the promotion order is set aside or quashed. In support of the said submission, he has placed reliance on the judgment of the Supreme Court in the case of **Amarjeet Singh and Others Vs. Devi Ratan and Others** reported in **(2010)**

1 SCC 417. He has further submitted that mere existence of a vacancy is not sufficient for an employee to gain seniority and seniority cannot be reckoned retrospectively from the date of such vacancy, as held in the case of **Bihar State Electricity Board and others Vs. Dharamdeo Das** reported in **2024 SCC OnLine Sc 1768**. The direct recruits are entitled to seniority from the date of their substantive appointment and they cannot claim any seniority anterior to their actual entry into service as held in the case of **Union of India and Another Vs. Manpreet Singh Poonam** reported in **2022 LiveLaw (SC) 254**.

17. Learned Additional Advocate General appearing for the respondent - State has clearly conceded that vacancy register was not properly maintained and there were discrepancies in that regard. He has relied on the Chart as submitted before the Tribunal at paragraph - 18 of the impugned order in support of his submission. He further submitted that, as certain anomalies and discrepancies have crept in preparation of

the vacancy register, the same needs to be corrected. Therefore, the State has agreed to examine the numbers and take necessary action.

18. The submission on behalf of the State is that the petitioners would also be entitled to put across their view point while considering the objections raised by the private respondents (3 to 28) to the final seniority list dated 07.03.2022. In fact, the learned Additional Government Advocate has supported the impugned order passed by the Tribunal.

19. The learned Senior Counsel appearing for the private respondents (3 to 28) has submitted that the final seniority list dated 07.03.2022 was published in clear violation of the Official Memorandums dated 05.07.1976 and 14.12.1987, which were issued pursuant to the judgment of the Supreme Court in the case of **V.B. Badami** (*supra*), 346 vacancies were wrongly shown in the vacancy register. The 346 vacancies never arose in the cadre and yet were treated as vacancies in the vacancy register. These 346 vacancies have been taken

into account in the matter of allocation in the final seniority list. As a result, excess promotions were granted in favour of the promotees like the petitioners herein which resulted in vacancy not being properly calculated in these block periods. The cadre strength can be altered only by way of amendment in terms of Sections 3 and 8 of the Karnataka State Civil Services Act, 1978. However, 50 temporary posts were created by an order dated 18.04.2007 for a period of one year. These 50 posts ceased to exist on 17.04.2008. However, these 50 posts are considered as permanent vacancies in the vacancy register. The persons promoted in excess of the promotion quota are not entitled for seniority, inasmuch as, those promotions may not be illegal but irregular. The persons holding promotional post cannot claim seniority unless their promotions come within their quota. It is the further contention of the petitioners that the respondents having not questioned the seniority list dated 05.08.2021, could not have challenged the subsequent seniority list dated 07.03.2022 which is untenable on the facts of the case.

The submission is that the seniority list dated 05.08.2021 was shortlisted within five months of its publication except the original seniority list dated 27.01.2022 as on 01.01.2021 came to be published. Respondent Nos.3 to 28 preferred their objections which were wrongly rejected and ignoring the law and the objections, final seniority list came to be published on 07.03.2022 as on 01.01.2021. The seniority list dated 05.08.2021 as on 01.01.2021 was never settled. Within five months, another seniority list dated 27.01.2022 as on 01.01.2021 was published. It cannot be said that the said seniority list dated 05.08.2021 cannot be re-opened inasmuch as the State Government itself had re-opened the said seniority list.

20. In respect of the submissions regarding Rule 10 of the Karnataka Government Servants' (Seniority) Rules, 1957, it is submitted that the present case is not the case of updation or revision under Rule. All that the Tribunal has directed is for correcting the errors committed by the State. The learned counsel for the petitioners has placed reliance on the judgment of the Supreme Court in the

Case **M.R. Sharma Vs. State of Andhra Pradesh** and submits that the patent illegality in the decision can always be corrected. In the instant case, the Government has not maintained the vacancy register properly and the promotions have been made outside their quota.

21. Learned Additional Advocate General fairly admitted this mistake and submitted that after considering the representation, corrective steps are to be taken. He has further placed reliance on the decision of the Apex court in the case of **Videsh Sanchar Nigam Ltd Vs. Ajith Kumar Kar and Others** reported in **(2008) 11 SCC 591** to submit that *bona fide* mistakes would not confer any right on any party and it can be corrected. The promotions made in excess of their quota may not be illegal, but certainly they are irregular. The dispute is in respect of the seniority and not in respect of promotions. In the case of **Gonal Bihimappa** (*supra*), the Supreme Court has drawn final distinction in paragraph 19.

22. The contention that without condoning the delay, the Tribunal could not have admitted the applications and disentitled the respondents for any relief is untenable. The condonation of delay application was filed along with the original application on 30.11.2023 seeking condonation of delay of 8 months and 10 days in approaching the KSAT. The KSAT had issued notice on both delay application and main application on 15.12.2023. After completion of the proceedings, the matter was taken up for final hearing without formally admitting the application. The learned KSAT heard the parties on the delay applications during the final arguments and the application now stands allowed vide order dated 06.02.2025. It was an inadvertent mistake which stands corrected now by passing a formal order condoning the delay in approaching KSAT. The petitioners were heard by the KSAT before condonation of delay vide order dated 01.04.2025 and incorporated the same in the final order dated 01.04.2025. A seniority list contrary to the rules cannot be justified on the ground of delay in

approaching the Court as held in the case of **Ajay Kumar Shukla and Others Vs. Arvind Rai and Others** reported in **(2022) 12 SCC 579**.

23. We have considered the submissions of the learned counsel for the parties.

24. There is no dispute that the promotions have been made in excess of the quota prescribed for promotion under the Rules. The question is that whether the excess promotions made over and above the prescribed quota would also carry the seniority. The Supreme Court in the case of **V.B. Badami** (*supra*) has clearly held that promotion in excess of quota would not entitle the seniority. 50 promotions were made for a period of one year by executive order dated 18.04.2007. These temporary posts ceased to exist on 17.04.2008. However, these 50 posts were considered as permanent vacancies in the vacancy register. In the case of **V.B.Badami** (*supra*) at paragraphs 29 and 30, it has been held as follows:

"29. In working out the quota rule, these principles are generally followed. First, where Rules

prescribe quota between direct recruits and promotees, confirmation or substantive appointment can only be in respect of clear vacancies in the permanent strength of the cadre. Second, confirmed persons are senior to those who are officiating. Third, as between persons appointed in officiating capacity, seniority is to be counted on the length of continuous service. Fourth, direct recruitment is possible only by competitive examination which is the prescribed procedure under the rules. In promotional vacancies, the promotion is either by selection or on the principle of seniority-cum-merit. A promotion could be made in respect of a temporary post or for a specified period but a direct recruitment has generally to be made only in respect of clear permanent vacancy either existing or anticipated to arise at or about the period of probation is expected to be completed. Fifth, if promotions are made to vacancies in excess of the promotional quota, the promotions may not be totally illegal but would be irregular. The promotees cannot claim any right to hold the promotional posts unless the vacancies fall within their quota. If the promotees occupy any vacancies which are within the quota of direct recruits, when direct recruitment takes place, the direct recruits will occupy the vacancies within their quota. Promotees who were occupying the vacancies within the quota of direct recruits will either be reverted or they will be absorbed in the vacancies within their quota in the facts and circumstances of a case.

30. *The quota between promotees and direct recruits is to be fixed with reference to the permanent*

strength of 135 junior duty posts. Persons who were allotted the junior duty posts under the States Reorganisation Act are to be accommodated within the permanent cadre strength of 135 posts. If they are in excess of the number then the excess will have to be accommodated in the promotional vacancies during the subsequent period commencing from December 2, 1957 to September 10, 1959."

25. The said judgment has been further reaffirmed in **Gonal Bihimappa** (*supra*). In pursuance of the aforesaid judgments, the Government has issued Official Memorandums dated 05.07.1976 and 14.12.1987 and therefore, it is the duty of the State to prepare the seniority list in terms of aforesaid official memorandums.

26. Learned Additional Advocate General has fairly admitted that there were discrepancies in maintaining the vacancy register and the State is open to correct the mistakes by taking into consideration the representations made. The errors are always open to be corrected. No one can claim a right on basis of an error/mistake occurred in preparing the seniority list as held in the case of **VSNL Vs. Ajith Kumar Kar and Others** (*supra*). Paragraph 46 of the said judgment is extracted hereunder:

"46. It is well settled that a bona fide mistake does not confer any right on any party and it can be corrected. VSNL vide subsequent Office Order bearing Ref. No. HQ-A/01-04/91-PE1 dated 18-10-1995 had rectified its mistake appearing in earlier order dated 3-9-1993 and the said office order was again modified by another Office Order bearing No. HQ-8A/01-04/91-PE1 dated 19-12-1995 by which Para 2(A) of the Office Order dated 18-10-1995 was modified to the extent as stated in the earlier part of this judgment. The modified order was a one-time exercise for choosing the alternatives of settlement of pension and the pensioners were required to submit their consent to the regional heads in a prescribed format by 15-1-1996. The Government of India, Ministry of Personnel, Public Grievances and Pension (DP & PW), New Delhi, issued OM dated 22-11-1996 (Annexure P-14) which is the nodal department of the Government of India for taking policy decisions on pensionary matters sent clarificatory order, a copy thereof was sent to the Ministry of Telecommunications, Department of Communications, dealing with the subject of payment of pension to the employees of erstwhile OCS who were absorbed in VSNL."

27. Similar view has been re-iterated in the case of **Union of India and Another Vs. Narendra Singh** reported in **2008 2 SCC 750**.

28. We do not find any substance in the submission of the learned Senior Counsel for the petitioners that the

seniority list dated 05.08.2021 as on 01.01.2021 became final and therefore, the respondents were noticed entitled to challenge the subsequent seniority list dated 07.03.2022. As noticed from the above facts, the seniority list dated 05.08.2021 was a shortlived seniority list and the Government itself, within a period of 5 months, came out with another provisional seniority list dated 27.01.2022 as on 01.01.2021 and thereafter, published the final seniority list dated 07.03.2022. The subject matter is challenged before the KSAT. Therefore, the submission that the seniority list dated 05.08.2021 had attained finality has no force and we reject the contention of the learned Senior Counsel for the petitioners.

29. Rule 10 of the Karnataka Government Servants' (Seniority) Rules, 1957 would have no application to the facts of the case when the State has admitted that errors have been committed in maintaining the vacancy register and when the final seniority list is under challenge. As the seniority list dated 05.08.2021 was not settled, Rule 10 of

the Rules, 1957 has no application to the facts of the present case.

30. We have perused the material available on record, and the submissions made by the learned counsel for the respondents. It clearly depicts that the Government admitted some discrepancy in the seniority list and block period not stated in clear terms. In view of the ration laid down in G.T. Ramaswamy's case (supra), it is open to the Government to tinkering and re-do the matter/seniority list.

31. Further, learned AAG also fairly submitted that the State Government has already formed a committee to do the whole list afresh. In view of the same, the petitioners have not established any ground to invoke jurisdiction under Article 226 of the Constitution of India.

32. Though the Tribunal had heard the condonation of delay application along with the main application, however, by an inadvertent mistake, separate order was not passed on the application seeking condonation of delay

while passing the final order dated 06.02.2025. As such, the said inadvertent mistake has been corrected by passing the order dated 01.04.2025 condoning the delay and the same has been incorporated in the order dated 01.04.2025. We therefore, do not find any substance in the contention that separate order was not passed on the application seeking condonation of delay when the final order dated 06.02.2025 was passed and therefore, the final order is vitiated. The inadvertent mistake has been corrected and no prejudice has been caused to the petitioners. Even otherwise, a seniority list prepared contrary to the Rules cannot be justified only on the ground of delay in approaching the Court as held in the case of **VSNL Vs. Ajith Kumar Kar and Others** (*supra*). Paragraph 30 of the said judgment, which is relevant, is extracted hereunder:

"30. *The Government of India, Ministry of Personnel, Public Grievances and Pension (Department of Pension and Pensioners' Welfare) vide Office Memorandum dated 7-2-1990 in reply to the Department of Telecommunications OM No. A-13016/1/188-O.C. dated 22-1-1990 issued a*

clarification relating to the settlement of pensionary terms, etc. in respect of erstwhile OCS employees who were absorbed in VSNL. In terms of this OM, it was clarified very specifically that where the employees had opted to retain the pensionary benefits under the Central Government Rules, the emoluments drawn under the PSUs shall be treated as emoluments for the purpose of Rule 33 of the Central Civil Services (Pension) Rules, 1972 and, accordingly, any emolument drawn by the transferred employee will be taken into account for the purposes of calculation of average emoluments as per the clarification given in Note 10 below Rule 33 of the CCS (Pension) Rules and it was stated that such employees who had specifically opted for Central Government pensionary benefits will be entitled to the benefit of payment of pension based on the emoluments drawn at the time of retirement from the PSU."

33. In view of the aforesaid, we are of the considered view that the impugned order does not suffer from any illegality or perversity, which requires interference by this Court in exercise of its jurisdiction under Article 226 of the Constitution of India, when the State itself has admitted the errors/mistakes in preparing/maintaining the vacancy register, it is open to take corrective measures. We deem it appropriate to leave it to the State to take corrective measures for correcting

the vacancy register and thereafter, publishing the final seniority list as directed by the KSAT.

34. Accordingly, the writ petition stands **dismissed**, however, without costs.

**Sd/-
(D K SINGH)
JUDGE**

**Sd/-
(VENKATESH NAIK T)
JUDGE**

RKA