



W.P.(MD).No.16467 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 05.01.2024

PRONOUNCED ON : 08.02.2024

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.16467 of 2023

and

W.M.P.(MD)Nos.13755 and 13756 of 2023

S.Indra Gandhi,
Spechai Tahsildar LA (Madurai
Thoothukudi Double Track way)
Thirumangalam,
Madurai District.

... Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. by its Principal Secretary to
Government,
Revenue Administration,
Disaster Management Department,
Revenue Department,
Fort. St. George,
Chennai-600 009.



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2.The Additional Chief Secretary /
Commissioner of Revenue Administration,
Revenue Administration and Disaster Management
Department,
Ezhilagam, Chepauk,
Chennai-600 005.

3.The District Collector,
Madurai District,
Madurai District.

4.Padma,
Assistant Manager (Godown),
Madurai North,
Tasmac Limited,
Madurai.

5.Pandi,
Special Tahsildar (LA Highways 744),
Thirumangalam-Rajapalayam / Unit-II,
Peraiyur,
Madurai District.

6.Vijayalakshmi,
Special Tahsildar (LA) (ADW),
Usilampatty,
Madurai District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records relating to the impugned redrawn panel of Deputy Tahsildar vide his proceedings in



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Roc.No.A1 / 20725 / 2022 dated 25.03.2023 and consequential impugned order passed by the 3rd respondent vide his proceedings in Na.Ka.No.1992 / 2023 / Pa.A.1 dated 30.06.2023 and quash the same as illegal.

For Petitioner : Mr.S.Ajmal Khan,
Senior Counsel
For Ajmal Associates

For Respondents : Mr.R.Suresh Kumar,
Additional Government Pleader

ORDER

The present writ petition is a Writ of Certiorari, to call for the records relating to the impugned redrawn panel of Deputy Tahsildar vide his proceedings in Roc.No.A1 / 20725 / 2022 dated 25.03.2023 and consequentially to quash the impugned order passed by the 3rd respondent vide his proceedings in Na.Ka.No.1992 / 2023 / Pa.A.1 dated 30.06.2023.

2. The brief facts which are necessary for the disposal of this Writ Petition is as follows:-



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(i) The petitioner was initially appointed as a Junior Assistant and thereafter promoted as Assistant. Then, the petitioner was promoted as Deputy Tahsildar on 20.06.2013. Subsequently, the petitioner has completed UG Degree in the year 2016. Following which, on 09.11.2018, the petitioner was further promoted as Tahsildar. The posts of Assistants are governed by the Tamil Nadu Ministerial Service Rules and the seniority of the Assistants is arrived at District level basis. Having been promoted to the post of Assistant, the petitioner had to undergo number of trainings in the cadre of Assistant so as to become eligible for promotion to the post of Deputy Tahsildar, as per the provisions of Tamil Nadu Ministerial Service Rules, i.e., the petitioner had to undergo Bhavani Sagar Training for a period of 40 days and she also completed all the related departmental examinations including land survey training for a period of 35 days and training as Fikra Revenue Inspector so as to become qualified for further promotion. The candidates are to clear Survey Maintenance Test as well. All the above said requirements are to be cleared by the candidates in stricto sensu. The above said trainings are to be imparted as per the seniority. Since the petitioner's seniority has been fixed by the authorities in the year 2008 itself, the said seniority was being operated for the



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purpose of undergoing the above referred trainings and examinations. Earlier the Government of Tamil Nadu issued G.O.Ms.No.133 Revenue Department dated 07.02.1995 amending Rules 5(g) of the Special Rules for the Tamil Nadu Revenue Subordinate Service and thereby the following proviso was inserted:

"Provided also that an Assistant appointed by direct recruitment in the District Revenue Unit, who has completed a total period of five years, passed all the tests prescribed and undergone training as Firka Revenue Inspector for a period of two years successfully, shall be eligible for inclusion of his name in the approved list of Deputy Tahsildars in the District above his seniors appointed other than by direct recruitment or for refixation of his seniority over such seniors, if his name has already been included in the list of Deputy Tahsildars. The consideration of his claim shall be against the first vacancy that follows the carried over vacancies."

(ii) In the terms of the said proviso, the directly recruited Assistant, by virtue of their qualification of degree, can claim preference only if his name had already been included in the list of Deputy Tahsildar. If the name of the directly recruited Assistant was not included in the list of Deputy Tahsildar, they cannot march over the seniors. According to the said Rules, the directly recruited Assistant would become eligible only if he has completed 5 years of service.



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When the petitioner and other promotee Assistants were promoted as Deputy Tahsildar in the year 2011, the directly recruited Assistant has not even completed the required period of 5 years of service and as such the petitioner and other promotee Assistants became Deputy Tahsildar in the year 2011 itself. In the wake of three Judgments of the Hon'ble Apex Court for the purpose of implementing the same, the impugned order dated 28.08.2022, 11.05.2022 and 09.09.2022 came to be passed revising the seniority fixed much earlier. While so, the 3rd Respondent issued notification or Revision of Deputy Tahsildar Panel for the year 2004 to 2017 dated 28.02.2022 in which the petitioner's name was included under the Revised Deputy Tahsildar Panel for the year 2013. Subsequently, the panel was redrawn for Deputy Tahsildar from the year 2014-2017 vide proceedings dated 11.05.2022 of the 3rd Respondent. In the said panel also the petitioner's name was included taking into consideration of her UG decree. The 3rd Respondent published yet another panel dated 09.09.2022 in which also the petitioner's name was included in the list of Deputy Tahsildar for the year 2015. Challenging the panel dated 28.02.2022, 11.05.2022 and 09.09.2022, the petitioner filed a writ petition in W.P.(MD)No. 24640 of 2022 and this court was pleased to allow the petitioner's writ petition.



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No appeal was preferred by the Government as against the said order passed by this Court. While so, during the pendency of the said writ petition, the 3rd respondent has published the redrawn panel of Tahsildar from the year 2007 to 2021 dated 25.03.2023 in which the petitioner's name was not found. Since the petitioner's writ petition in W.P.(MD)No.24640 of 2022 was allowed by this Court. The said impugned redrawn panel of Tahsildar would amount to a contempt.

(iii) However, in a similar case, pertaining to other districts, the Government preferred a Writ Appeal before the Division Bench of this Court, there was an order of interim stay. In view of the judgment of the Apex Court in the case of Rathinasamy, the promotee graduate Assistants shall have a preference over the non graduate promotee Assistant and the judgment of the Apex Court was directed to be implemented with effect from 08.04.2009 the date on which the judgment of Rathinasamy case was delivered. Admittedly, the petitioner was promoted as Assistants as early as in the year 2008 itself and as such in view of the prospective implement of the judgment, the petitioner is well protected and the petitioner's seniority in the cadre of Assistant need not



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be revised. However, the 3rd Respondent vide his impugned proceedings in Roc.No.A1/20725/2022 dated 25.03.2023 has published the redrawn panel of Deputy Tahsildars from the year 2004 to 2020 in which the petitioner's name did not find a place. By all means, the petitioner's name ought to have been included in the said redrawn panel of Tahsildars. The non inclusion of the petitioner's name is per se illegal. Following which, another impugned proceedings dated 30.06.2023 came to be issued. In which, the 4th respondent has been posted in the petitioner's place indicating that the said posting was made in the vacancy caused on account of the petitioner's reversion. However, no order of reversion was communicated to the petitioner. The 3rd respondent has directly posted the 4th respondent in the petitioner's place without communicating any order of reversion. Thus, the consequential reversion order is also bad in eye of law. The respondents 5 and 6 are also the petitioner's juniors and they were allowed to work as Tahsildar overlooking the seniority of the petitioner. The petitioner is in possession of UG Degree, she can also have preference on par with a other candidates and inclusion of more number of juniors in the panel overlooking on the basis of degree is not legally sustainable. Challenging the same, this writ petition came to be filed.



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3. Submissions of the Petitioner's Counsel:

(i) The learned Senior Counsel, Mr.S.Ajmal Khan appearing for the petitioner vehemently submitted that the impugned order of reversion is bad in the eye of law for want of notice to be served on the petitioner. That apart, he also submitted that the order of the Supreme Court was not followed in letter and spirit. The impugned order of the Redrawn Panel of Tahsildars from the year 2007 to 2021 dated 25.03.2023 which has been passed with respect to the revised Deputy Tahsildar lists from the year 2004 to 2017 issued by the District Collector vide notification bearing Roc.No.A1/46756/2019 dated 28.02.2022 has already been quashed by this Court in W.P.(MD)No.24640 of 2022 dated 06.12.2022. However, the impugned revised panel of Tahsildars from the year 2007 to 2021 dated 25.03.2023 has been issued in reference to the already quashed notification pertaining to the Revised Deputy Tahsildars lists from the year 2004 to 2017 which was challenged by the petitioner herein. Despite not preferring an appeal as against the same, without considering the quashment of the Revised Deputy Tahsildar list from the year 2004 to 2017 dated 28.02.2022, the 3rd respondent has proceeded to issue a Redrawn Panel of Tahsildars from



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the year 2007 to 2021 dated 25.03.2023, which is bad in the eye of law and per se illegal.

(ii) It was also brought to the knowledge of this Court by the learned Senior Counsel that the petitioner has been reverted without issuance of a reversion order and posting order and without such exercise, the 4th respondent has been posted in the place of the petitioner. As a result of which, the petitioner is out of employment since 30.06.2023, the date of impugned consequential relieving order. The entire order of reversion has been passed indicating the fact that the petitioner has acquired the qualification as early as in the year 2008 and hence, she should be treated on par with the directly recruited Assistants, as far as the question of seniority is concerned. He further submitted that treating the petitioner as non graduate is per se illegal and with the order in favour of the petitioner passed by this Court in W.P.(MD)No. 24640 of 2022 dated 06.12.2022, the impugned order of Revised Tahsildar Panel from the year 2007 to 2021 dated 25.03.2023 and consequential reversion order dated 30.06.2023 cannot be sustained. In view of the same, he pressed for allowing the Writ Petition.



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4.Submissions on the side of the respondents:

(i) Per contra, the learned Additional Government Pleader appearing for the respondents has filed a counter and he vehemently submitted that the Hon'ble Madras High Court in W.P.Nos. 14848 of 2010, 26239 of 2009, 26240 of 2009, 2853 of 2010, 2854 of 2010 and 25796 of 2009 ordered on 27.09.2011 that, the official respondents are bound to proceed with the promotions of the Deputy Tahsildars on the basis of the Judgment passed by the Hon'ble Apex Court in C.A.Nos.2251-2252 of 2009 dated 08.04.2009. He further submitted that after the decision of the Constitution Bench in *Indira Sawney's* case as reported in *1992 Sup (3) SC 217*, the Government of Tamil Nadu provided for reservation to the members of the Backward Class/ MBC / DNT communities at the time of drawal of panel for considering the promotion to the cadre of Deputy Tahsildars in Revenue Department. Insofar as the reservation is concerned, as per Rule 6 of the said Special Rules, the rule of reservation of appointment (General Rule 22) shall apply to the category of Deputy Tahsildars in each district at the time of selection for inclusion in the list of Deputy Tahsildars. In the light of the same, the Government of Tamil Nadu issued



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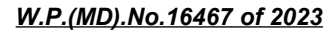
G.O.Ms.No.876 Revenue and Disaster Management Department, Service Wing [Ser. 3(2)] dated 06.03.2019 directed to redraw the temporary panel of Deputy Tahsildar drawn from the year 2004 to 2018 by providing rule of reservation to the Backward Classes and Most Backward Classes / DNC candidates along with Scheduled Caste / Scheduled Tribe candidates as per rule. Insofar as the petitioner is concerned, she was initially appointed as Junior Assistant with SSLC qualification and passing the required departmental tests, she was promoted as Assistant and thereafter, included in the Deputy Tahsildar Panel from the year 2012 and also promoted as Tahsildar in the year 2018.

(ii) Subsequently, she acquired UG degree in the year 2016 as on date she has rendered 23 years of service in the department. Her name is in the list of non graduate promotee Assistants. Hence, according to the Judgment of the Hon'ble Apex Court in the case of Rathinasamy, granted in favour of directly recruited Assistants and graduate promotee Assistants and for want of qualification, the panels for the year from 2004 to 2018 inclusive of the year 2012 in which the petitioner's name was included in the panel of Deputy Tahsildar were revised in terms of the aforesaid orders of the Hon'ble Apex



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Court as well as the Circular instructions given by the Additional Chief Secretary and Commissioner of Revenue Administration. Therefore, in the redrawn panel, her name which was considered as Non-graduate promotee assistant was included in the panel of Deputy Tahsildars for the year 2015 with a note as “B.A.:2016”, M.A.” at Sl.No.25 and since with her relative seniority in the revised panels, she could not be fitted in the revised list of Tahsildars up to the year 2022 in the impugned redrawn panel proceedings dated 25.03.2023 and proceedings dated 23.06.2023. By virtue of relative seniority, i.e., Sl.No.34 in Deputy Tahsildar panel 2014, the 4th respondent herein has been included in the panel of Tahsildar for the year 2022 and insofar as the private respondents 5 and 6 are concerned, they have obtained an interim direction from this Court in W.M.P.(MD)No. 15188 of 2022 in WP (MD) No.20942 of 2022 dated 02.09.2022, wherein this Hon'ble Court was pleased to dispose of the writ petition by inter-alia ordering as, *"4. Accordingly, there shall be a direction to the second Respondent herein to dispose of the Petitioner's appeal dated 23.05.2022 and 28.05.2022 within a period of 12 weeks from the date of receipt of a copy of the order. Till such time, the respondents shall not revert the Petitioners from the post of Deputy Tahsildar".*



5. Heard the learned Senior Counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents and carefully perused the materials available on record.

(i) The petitioner is a promotee Assistant governed by the Tamil Nadu Ministerial Service Rules. She was appointed as Junior Assistant after passing the competitive examination conducted by the Tamil Nadu Public Service



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Commission. Thereafter, she was promoted as Deputy Tahsildar on 20.06.2013.

After being promoted to the post of Deputy Tahsildar, she has completed her UG degree in the year 2016. Thereafter, on 09.11.2018, she was promoted as Tahsildar and she has rendered about 23 years of service. For appointment to the post of Assistants, there can be promotion from among the Junior Assistants and they can also be directly recruited from the competitive examination held by the Tamil Nadu Public Service Commission. The minimum qualification for the directly recruited assistant post is graduation. On being promoted as Deputy Tahsildar, an assistant is transferred from the Ministerial Service to the Revenue Subordinate Service. The Government of Tamil Nadu vide G.O.Ms.No.884, Revenue Department, dated 12.08.1992 and vide consequential G.O.Ms.No.133, Revenue Department, dated 07.02.1995 introduced two provisos. In the meanwhile, the promoted Assistants, that is, Assistants who were promoted from the post of Junior Assistants filed O.A.No. 5710 of 1992 before the Tamil Nadu Administrative Tribunal, Chennai. The Tamil Nadu Administrative Tribunal quashed the aforesaid G.O.s by its order dated 26.02.1997, but on the appeal preferred by the directly recruited Assistant, the aforesaid orders of the Tamil Nadu Administrative Tribunal was



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reversed by this Court in W.P.No.27173 of 2003 dated 10.09.2005. Challenging the same, Special Leave Petitions were filed in Civil Appeal No.2251 of 2009 (@SLP No.9628/2006) with Civil Appeal No.2252 of 2009 (@SLP No. 8848/2008) and the same was decided on 08.04.2009 in the case of *M.Rathinaswami .Vs. State of Tamil Nadu and others reported in 2009(5) SCC 625*. I am fortified by the Judgment passed by the Hon'ble Apex Court in the said case and the portion relevant to the facts and circumstances of the instant case is extracted as follows:

“22. In the present case, both the directly recruited Assistants and promoted Assistants have been integrated into one cadre of Assistants. No doubt, even after this integration for further classification for promotion higher educational qualifications can possibly be a rational basis, but in our opinion there can certainly be no further classification between direct recruits and those promotee Assistants who have acquired the graduation qualification whether before joining as Junior Assistant or thereafter. Once a promotee becomes a graduate we cannot see any rational basis for discrimination against him vis-à-vis direct recruits.”



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In view of the said Judgment, it became final that both the directly recruited Assistants and the promoted graduate Assistants irrespective of their mode of recruitment have to be integrated into one cadre of Assistants. It has also been categorically held by the Hon'ble Apex Court that having integrated the directly recruited Assistants and promotee graduate Assistants into a single cadre of Assistants, no further qualification between the direct recruits and the promoted graduate Assistants would be necessary.

(ii) Subsequent to the order passed by the Hon'ble Apex Court, in *M. Rathinaswami v. State of T.N. (2009) 5 SCC 625 dated 08.04.2009*. The Supreme Court upheld the validity of the amendment to Rule 5(g) and Annexure-III item(ii) of TNRSS Rules to the extent that it gives preference to the direct recruit Assistants over the Promotee non-graduate Assistants observing that the very basis for the distinction sought to be drawn is that direct recruits are graduates and hence, intellectually superior to non-graduates. However, the Hon'ble Supreme Court read down the rule to save it from becoming violative of Articles 14 and 16 of the Constitution and held that once



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a promotee becomes a graduate, there cannot be any rational basis for making a distinction vis-à-vis direct recruits and held that the rule is inapplicable to the promotees who are graduates. In compliance of the said Judgment, the Government issued directions to the Principal Secretary and Commissioner of Revenue Administration, Chennai in Letter (MS) No.305 dated 07.08.2009 to implement the order of the Hon'ble Supreme Court in letter and spirit and the District Collectors were instructed to take necessary follow up action to implement the order. Accordingly, the District Collectors of Tiruchirappalli, Sivagangai, Tirunelveli, Madurai, Coimbatore and Vellore have passed orders redrawing the seniority list by treating the Direct recruit Assistants on par with the Promotee graduate Assistants and redrawn the panel of Deputy Tahsildars.

(iii) Aggrieved by the orders of the District Collectors, a batch of writ petitions were filed by the Promotee non-graduate Assistants, praying to stay the orders of redrawal of the seniority list. The Direct recruit Assistants also filed a batch of writ petitions against the revised list of Deputy Tahsildars by District Collectors of Tiruchirappalli, Sivaganga and Tirunelveli *inter-alia* challenging their reversion contending that the revised lists also contained the



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names of Promotee Assistants who are non- graduates. However, this Court, vide order dated, 12.10.2011 dismissed the writ petitions holding that the judgment of the Hon'ble Supreme Court dated 08.04.2009 is declaratory and binding on all concerned. Challenging the judgment of the Single Judge dated 12.10.2011, a batch of writ appeals were filed before this Court and the division Bench of this Court, vide common judgment, dated 09.03.2012, set aside the judgment of the Single Judge and directed the State of Tamil Nadu to draw the seniority list taking direct recruit Assistants, graduate promotees as well as non-graduate promotees forming as one group and directed the State to draw the panel as on 04.12.1978 and reconsider the promotion subject to the candidates satisfying the criteria required under the rules within a period of two months.

(iv) The said judgment was passed by the Hon'ble Division Bench of this Court in consideration of the Letter (MS) No.392 dated 30.12.2011, in and by which the government accepted the proposal of the Principal Secretary, Revenue to dispense with the degree or graduation as minimum educational qualification for the post of Deputy Tahsildar and directed to take non-graduate promotees along with graduate promotees and direct recruits as one group,



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based on the seniority as on 04.12.1978 for the post of Deputy Tahsildar. Challenging the same, Special Leave Petitions were filed and the Hon'ble Apex Court in C.A.Nos. 257 – 258 of 2015 in the case of *A.Rajagopalan .vs. The District Collector, Thiruchirapalli District & Others.* dated 12.03.2019 had set aside the order passed by the Division Bench, thereby allowing the appeals with certain observations and directions which are extracted as follows:

“(i) Promotions of the Direct recruit Assistants effected between 07.02.1995 and 08.04.2009 and their seniority in their respective positions as on date, shall not be disturbed;

(ii) The benefit extended to the graduate promotee Assistants by placing them on par with Direct recruit Assistants is to be given effect to prospectively from the date of judgment of this Court dated 08.04.2009 rendered in the case of M. Rathinaswami v. State of T.N. reported in (2009) 5 SCC 625;

iii) After 08.04.2009, the promotion to the post of Deputy Tahsildar from its feeder category, i.e., Direct recruit Assistants and Promotee graduate Assistants, shall be strictly in accordance with the judgment of this Court referred above, i.e., treating Promotee graduate Assistants on par with Direct recruit Assistants. Such



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promotion shall be given effect to, without reference to any interim order(s) passed by the High Court:

(iv) If any panels are prepared, and promotions are given, after 08.04.2009 for promoting the Assistants to the post of Deputy Tahsildars in Tamil Nadu Revenue Subordinate Service contrary to the judgment of this Court dated 08.04.2009, such panels and promotions have to be revised so as to bring in conformity with the judgment of this Court referred above;

(v) By virtue of the judgment of this Court dated 08.04.2009, referred above, Promotee graduate Assistants are placed on par with Direct recruit Assistants. So far as Promotee non-graduate Assistants are concerned, the amended rule holds the field, which gives preferential treatment to Direct recruit Assistants, over Promotee non-graduate Assistants;

(vi) Promotee non-graduate Assistants, who are impleaded as party respondents in these appeals, are not entitled to any directions in their favour, as much as, all these appeals are preferred by Direct recruit Assistants;

(vii) While implementing the above directions, if the seniority and promotion, of the persons who are already retired or dead, is affected in any manner, payments made on account of such seniority and



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promotion earlier granted to them during the interregnum period, i.e., from 08.04.2009 till this date shall not be recovered.

(viii) So far as Promotee non-graduate Assistants are concerned, it is open for them to pursue with the Government for appropriate amendment to the Rules, in which event we keep it open to Government to consider such request on its own merits.”

(v) In the meanwhile, a batch of Writ Petitions were filed by the promotee non graduate Assistants in W.P.(MD)Nos.8670 of 2016, 16652, 21601, 21602, 21703, 21783, 22627, 24006, 24313, 24761 & 27356 of 2022 before this Court seeking to set aside the revised panel published by the Government in pursuance of the Judgment of the Hon'ble Apex Court in C.A.Nos. 9335 and 9336 of 2018 in S.L.P.(C)No.5588, 5589 and 7651 of 2006 dated 11.09.2018. Those Writ petitions were with respect to the orders passed by the District Collectors of Trichirapalli, Tirunelveli, Sivaganga, Coimbatore and Vellore reversing the seniority list by treating the direct recruit assistants on par with a promotee graduate assistants. The said Writ Petitions were allowed by the learned single Judge, against which W.A.(MD)No.1522 of 2022 etc., batch were filed.



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(vi) The Hon'ble Division Bench of this Court in W.A.(MD)No.1522 of 2022 etc., batch dated 12.12.2023 setting aside the order passed by the learned Single Judge following the directions of the Hon'ble Apex Court in *A.Rajagopalan .vs. The District Collector, Thiruchirapalli District & Others.* Dated 12.03.2019 has passed the following order:

“35. In fact consequent to the implementation of the Judgment of the Apex Court and in view of the redrawal of the temporary panel of Deputy Tahsildar, the respondents / writ petitioners were sent back to their original services (i.e. Ministerial Services) and if at all any vacancies are available in the cadre of Deputy Tahsildar, these candidates, who have been sent back to their original services, may be accommodated by the authorities concerned by taking an administrative decision and by following the procedures as contemplated.

36. With regard to the finding of the learned Single Judge that the doctrine of proportionality is to be applied, the same has no application with reference to the facts and circumstances of the case on hand, since the post of Deputy Tahsildar is filled up through recruitment by way of transfer of service and it is to be construed as



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fresh appointment, wherein probation is to be declared and in the event of not declaring the probation, those candidates may be sent back to their original service. Thus, the method of appointment to the post of Deputy Tahsildar has not been considered by the learned Single Judge while adopting the principle of proportionality.

(37) The learned Single Judge has impressed upon the ground that the authorities concerned have violated the principles of natural justice. However, we find that the revised temporary panel of Deputy Tahsildar was notified and in the absence of any representation by the aggrieved employee, under Section 45 of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016, the said panel published shall be deemed to be final. Therefore, we are convinced with the ground raised by the appellant - State.

38. Even in certain cases, the aggrieved employees are of the opinion that some ineligible candidates have overlooked them in the revised temporary panel of Deputy Tahsildar prepared in pursuance of the implementation of the Judgment of the Honourable Supreme Court dated 11.09.2019. If so, they are at liberty to approach the Appellate Authority or the Reviewing Authority as the case may be for the purpose of reconsidering their names in order to rectify the error, if any occurred."



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(vii) In the instant case, the petitioner was initially appointed as Junior Assistant with SSLC qualification and thereafter, promoted as Assistant, following which, she was included in the Deputy Tahsildar Panel for the year 2012 and also promoted as Tahsildar in the year 2018. Her seniority was fixed by the authority in the year 2008 for the purpose of undergoing the various trainings and clearing various departmental examinations for the post of Assistant. Thereafter, she was promoted as Deputy Tahsildar on 20.06.2013. She has completed her UG degree in the year 2016 and she was promoted as Tahsildar on 09.11.2018. Thereby, she has rendered 23 years of service in the department. Though it is contended by the learned Additional Government Pleader for the respondents that she was not a graduate at the time of including her name in the panel of Deputy Tahsildar for the year 2012 and hence, she could be considered only a non-graduate promotee assistant. In the light of the Judgment passed by the Hon'ble Apex Court in the case of *M.Rathinaswami .Vs. State of Tamil Nadu and others reported in 2009(5) SCC 625*, such an argument is not sustainable. The Hon'ble Apex Court in the said Judgment has categorically held that both the directly recruited assistants and the promoted graduate assistants having been integrated into a single cadre of



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assistants, **there can be no further discrimination between the direct recruits and the promoted graduate assistants with respect to the date of clearing graduate qualification, that is either before joining as Junior Assistants or thereafter.** In view of the categorical observation made by the Hon'ble Apex Court, in the instant case, since the petitioner had acquired under graduation in the year 2016, the date of her clearing the graduation cannot be taken into consideration by the respondents authorities and declare her as promotee non graduate assistant for the purpose of including her name in the panel of Deputy Tahsildar list for the year 2012.

(viii) That apart, the revised Deputy Tahsildar from the year 2004 to 2017 vide notification dated 28.02.2022 was already challenged by the petitioner and others in W.P.(MD)No.24640 of 2022 and this Court, vide order, dated 06.12.2022 has quashed the same and has allowed the said Writ Petition and no appeal is preferred by the Government as against the same. In view of the same, the impugned redrawn panel of Tahsildars from the year 2007 to 2021 dated 25.03.2023 came to be passed by the 3rd respondent by not including the name of the petitioner. That apart, the consequential impugned



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order dated 30.06.2023 has been passed by the 3rd respondent by appointing the 4th respondent in the place of the petitioner wherein it has been stated that the petitioner has been reverted back to the post of Deputy Tahsildar. The said exercise has been done by the 3rd respondent without serving notice or reversion order or posting order to the petitioner. It is pertinent to mention here that the Hon'ble Apex Court in the case of *Rajagopal* dated 12.03.2019 has categorically held that the promotion of the direct recruit Assistants effected between 07.02.1995 and 08.04.2009 and their seniority in their respective positions as on date, shall not be disturbed and the benefit extended to the graduate promotee Assistants by placing them on par with the directly recruited Assistants is to be given effect prospectively from the date of Judgment of this Court dated 08.04.2009 rendered in *M.Rathinaswami .Vs. State* as reported in (2009) 5 SCC 625.

(ix) In view of the same, it is pertinent to mention here that the petitioner was promoted as Assistant as early as in the year 2008 and as such in view of the prospective implementation of the Judgment, the petitioner is well protected



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and her seniority in the cadre of Assistant need not be revised. That apart, in view of the order of the Hon'ble Apex Court in *M.Rathinaswami .Vs. State of Tamil Nadu and others reported in 2009(5) SCC 625*, the respondents ought to have considered her as graduate promotee assistant since she had acquired UG decree in the year 2016.

(x) In view of the same and in the light of the Hon'ble Division Bench of this Court in 1522 of 2022 etc. batch dated 12.12.2023, I am inclined to quash the impugned order dated 30.06.2023 and further direct the petitioner to approach the appellate authority or Revenue authority for the purpose of considering her name in order to rectify the error of seniority in the impugned redrawn panel of Deputy Tahsildar from the year year 2007 dated 25.03.2023 within a period of two (2) weeks from the date of receipt of a copy of this order and the respondents are directed to pass appropriate orders in the terms of above observation within a period of eight (8) weeks therefrom.



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7. Accordingly, this writ petition stands partly allowed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

08.02.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
Sml

To

1.The State of Tamil Nadu,
Rep. by its Principal Secretary to
Government,
Revenue Administration,
Disaster Management Department,
Revenue Department,
Fort. St. George,
Chennai-600 009.

2.The Additional Chief Secretary /
Commissioner of Revenue Administration,
Revenue Administration and Disaster Management
Department,
Ezhilagam, Chempauk,
Chennai-600 005.



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3.The District Collector,
Madurai District,
Madurai District.

4.Padma,
Assistant Manager (Godown),
Madurai North,
Tasmac Limited,
Madurai.

5.Pandi,
Special Tahsildar (LA Highways 744),
Thirumangalam-Rajapalayam / Unit-II,
Peraiyur,
Madurai District.

6.Vijayalakshmi,
Special Tahsildar (LA) (ADW),
Usilampatty,
Madurai District.



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L.VICTORIA GOWRI, J.

Sml

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