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W.P.No.6108 of 2012



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 21.07.2026

Pronounced on : 24.07.2026

CORAM:

THE HONOURABLE MR. JUSTICE T.VINOD KUMAR

W.P.No.6108 of 2012
and W.M.P.Nos.1 to 5 of 2012

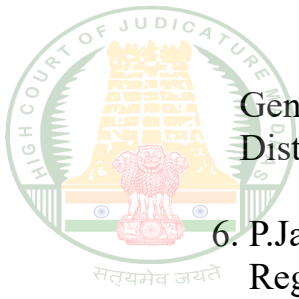
K.V.Reshma,
Deputy Director (Liaison Officer),
O/o. The Industries Commissioner &
Director of Industries and Commerce,
Chepauk, Chennai – 600 005.

... Petitioner

vs

1. The Principal Secretary to Government,
Micro, Small & Medium Enterprises [E1.(1)] Department,
Government of Tamil Nadu,
Fort St. George, Chennai – 600 009.
2. The Industries Commissioner &
Director of Industries and Commerce,
Chepauk, Chennai – 600 005.
3. Mr.R.Arangannal,
Joint Director of Industries and Commerce/
General Manager,
District Industries Centre,
Dindigul.
- 4.N.Jayapalan,
General Manager,
District Industries Center, Vellore.

5. S.Asokan,



General Manager,
District Industries Center, Tiruppur.

6. P.Jagadeesh,
Regional Joint Director,
Guindy, Chennai – 32.

7. M.Shanmugarajan,
General Manager,
District Industries Center, Theni.

8. S.Ramachandran,
Joint Director (Engg),
O/o. Industries Commissioner,
No.36, South Canal Bank Road,
Mandavelipakkam, Chennai – 28.

9. S.M.Ghias,
General Manager, District Industries Center,
Kancheepuram.

10. S.Maruthappan,
General Manager,
District Industries Center, Madurai.

11. V.Ramasubbu,
General Manager,
District Industries Center,
Cuddalore.

12. K.Mahalingam,
General Manager,
District Industries Center, Cuddalore.

13. K.Govindarajan,
General Manager,
District Industries Center,
Thoothukudi.

14. G.Gnanasekar,



General Manager,
District Industries Center,
Thoothukudi.

15. S.Sakthivel,
General Manager,
District Industries Center,
Thiruvallur.

16. R.Palanisamy,
General Manager,
District Industries Center,
Salem.

17. G.Murugan,
General Manager,
District Industries Center, Thiruvannamalai.

18. S.M.Rasumani,
General Manager,
District Industries Center,
Namakkal.

19. C.Leela Krishnan,
Deputy Director (Tech)
O/o. Industries Commissioner,
No.36, South Canal Bank Road,
Mandavelipakkam, Chennai – 28.

20. S.Santhakumar,
General Manager,
District and Industries Center,
Virudhunagar.

21. S.Kandasamy,
General Manager,
District Industries Center,
Trichy.

22. N.Elangovan,
Principal,



Government Technical Training Institute,
Guindy, Chennai – 32.

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23. Rajaganesh,
General Manager,
District Industries Center,
Villupuram.

24. K.Raju,
General Manager,
District Industries Center,
Erode.

25. A.Rajarajan,
General Manager,
District Industries Center,
Thirunelveli.

26. T.Mayathevar,
General Manager,
District Industries Center,
Sivagangai.

27. S.Fasal Ali,
General Manager,
District Industries Center,
Perambalur.

28. A.Daiveekan,
Deputy Director (EDP)
O/o. Industries Commissioner,
No.36, South Canal Bank Road,
Mandavelipakkam, Chennai – 28.

(R4 to R28 Impleaded as per Order dated
20.06.2012 in M.P.No.5/2012
in W.P.No.6108/2012)

... Respondents



Prayer: Writ Petition is filed under Article 226 of Constitution of India

praying to issue a Writ of Certiorarified Mandamus, to call for all relevant records pertaining to the order in Lr.No.5431/EI.(1)/2010-3 dated 09.05.2011 passed by the first respondent herein and order in G.O.(4D).No.9 MSME (E.I.1) department dated 23.02.2010 passed by the first respondent herein and quash the same as illegal, arbitrary, unreasonable being violative of rules and principles of natural justice and thereby direct the respondents 1 to 2 to revise and refix the petitioner's seniority in accordance with quota and rota prescribed in the special rules for the post of Assistant Director of Industries and Commerce/Unit Superintendent in category 3 of Tamil Nadu Industries Service and draw a proper panel for the next higher posts.

For Petitioner : Mr.K.Santhoshkumar
for Mr.M.Muthappan
For Respondents : Mrs.Y.Kavitha
Government Advocate for R1 & R2
: Mrs.E.Ranganayagi for R3 to R6, R8, R9,
R11-R14, R17-R21 & R24-R28
: Mr.P.Prabhu for R10 & R15
: No Appearance for R7, R16, R22 & R23

ORDER



Heard the learned counsel for the petitioner and the learned Government Advocate appearing on behalf of the respondents 1 & 2 and perused the record.

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2. The short point that arises for consideration of this Court in the present writ petition is as to “whether the petitioner, who was appointed against three notified vacancies for the year 1998-1999 in the post of Assistant Director of Industries and Commerce, Category-3, by way of direct recruitment, for which the selection process was undertaken in the year 2002 and appointment orders were issued *vide* G.O.Ms.No.97 dated 10.11.2005, can claim seniority in the year when the vacancies arose over and above the existing employees who were appointed on *ad hoc* basis to the said vacancies and whose services were regularized even prior to the petitioner joining the service.”

3. Briefly put, the case of the petitioner is that in respect of three vacancies to be filled up by way of direct recruitment to the post of Assistant Director of Industries and Commerce for the year 1998-1999, the respondents have undertaken the selection process through Tamil Nadu Public Service Commission (for short ‘TNPSC’) in the year 2002; that pursuant to the proceedings of the TNPSC dated 24.07.2002, 25.09.2002 and 6/19



21.11.2002, the petitioner was selected as one of the eligible candidates and

being appointed as Assistant Director by way of direct recruitment; that upon

the TNPSC completing the selection process, the respondents appointed the

petitioner to the said post under G.O.Ms.No.97, Small Industries (E.I.I)

Department dated 10.11.2005; that the petitioner along with two other

selected candidates, were directed to report for duty before the

Commissioner and Director of Industries and Commerce within seven days;

and that the petitioner had joined in duty on 16.11.2005.

4. It is the further case of the petitioner that the respondents, while fixing her seniority, have assigned her seniority at S.No.51 by the proceedings *vide* G.O.(4D).No.9 dated 23.02.2010; that the respondents fixed her seniority at S.No.51 based on the date of her joining into service; that the respondents in the interregnum i.e., till the date of completion of the selection process and issuing appointment orders, had made *ad hoc* arrangements by transferring some of their Assistant Engineers and Junior Engineers to the post of Assistant Director; that the Assistant Engineers and Junior Engineers, who were made to work on an *ad hoc* arrangement basis, were given promotion and were placed over and above the petitioner, who is a direct recruitee of the year 1998-1999; and that the action of the respondents in promoting the Assistant Engineers and Junior Engineers, who

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were made to work on *ad hoc* arrangement basis over and above 1

petitioner, who was selected by way of direct recruitment in respect of

vacancies of the year 1998-1999, is illegal and arbitrary; that for the delay of

the respondent in initiating the recruitment process in respect of vacancy

arising in the year 1998-1999 in May 2000, declaring the results of selection

in 2002 and issuing appointment orders in 2005, petitioner cannot be made

to suffer; that if only the respondents had complied the selection process

and appointed the petitioner earlier, she would have been higher in seniority

over *ad hoc* employees; and thus, the impugned proceedings by which the

claim of the petitioner for re-fixing seniority and revising the pay on the

basis of the period to which the vacancies relate, is rejected by the

respondents is illegal, arbitrary and unjust.

5. In support of the aforesaid contentions, reliance is placed on the following decisions:

(i) *K.Madalaimuthu and another – (2006) 6 SCC 558*

(ii) *W.P.Nos.3823 & 6508 of 2008 dated 26.02.2010*

6. Counter affidavit on behalf of the respondents 1 & 2 is filed.



7. Separate counter affidavits have also been filed on behalf of the 1st and 15th respondents/private respondents.

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8. The official respondents by the counter affidavit claimed that the appointment to the post of Assistant Director is made by way of direct recruitment and transfer by promotion from the Feeder categories, such as Junior Engineer and Assistant Engineer, in the ratio of 2:1; that the selection process for the vacancies to be filled up by way of direct recruitment was undertaken by issuing notification dated 30.05.2000; that the selection process required conducting of written examination and oral interview; that such process was completed in the year 2002; that as there was a ban on filling up vacant posts by direct recruitment as clarified by the Government Letter dated 19.12.2001, the candidates, who were selected for being appointed by way of direct recruitment were not issued with appointment orders; that only after the ban imposed by the Government earlier was lifted, the respondents issued proceedings dated 10.11.2005 and called upon the selected candidates, who had taken part in the selection process pursuant to the notification issued in 2000, to report for duty within a week from the date of issuance of the appointment order; and that the petitioner had joined duty on 16.11.2005; that the petitioner was placed on probation to undergo



training with the office of the Commissioner; and that her probation was declared on 15.11.2007.

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9. It is the further case of the respondents that since, the Government imposed a ban on filling up vacancies by direct recruitment and the said ban being applicable only in relation to filling up vacant posts through direct recruitment, the respondents filled up the vacancies which were required to be filled by transfer on promotion from the Feeder category; and that the petitioner, having been appointed against the vacancies to be filled by direct recruitment for the year 1998-1999, cannot seek for being placed higher in seniority than the candidates who were selected against the vacancies to be filled up by way of transfer on promotion i.e., from the Feeder category and joined in the promoted post even though the petitioner had joined the service at much a later point in time.

10. The respondents by the counter affidavit further contended that as per Rule 35 (aa) of the Tamil Nadu State and Subordinate Service Rules, where the method of recruitment to a Service, Class, Category or Grade is by more than one method of recruitment, the seniority is to be fixed based on the date, he/she is appointed to the Service, Class, Category or Grade; that since, the petitioner having been appointed to the service *vide* G.O.Ms.No.97 dated 10/19



10.11.2005, the petitioner cannot claim seniority over the appointees w

were selected against the vacancies, which were reserved for selection by way of transfer by promotion; that the respondents had granted promotion to the employees from the Feeder category by drawing up panels during the year 1999-2000, 2000-2001; and that in-service candidates whose names were included in the panels for promotion had joined the post of Assistant Director by transfer much prior to May, 2003, whereas the petitioner joined the service only on 16.11.2005.

11. Contending as above, respondents seek for dismissal of the writ petition.

12. Private respondent/10th respondent by the counter affidavit contended that he was promoted to the post of Assistant Director on 18.08.1999 through regular panel drawn and notified *vide* G.O.(4D).No.58 Small Industries Department; and that the claim of the petitioner regarding his appointment and regularisation status is based on assumption and thus, seeks for dismissal of the writ petition.

13. The stand of the 15th respondent is also on the same lines as the stand of the 10th respondent and had claimed that he was promoted to the

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post of Assistant Director (Technical) on 18.08.1999 after being included

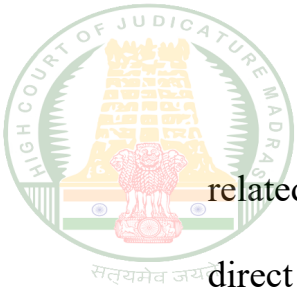
the regular panel which was approved by the respondents by issuing G.O.

(4D).No.58 and thus seeks for dismissal of the writ petition.

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14. I have taken note of the respective contentions as urged.

15. The petitioner, while claiming of being appointed against the notified vacancies for the post of Assistant Director of the year 1998-1999, did not raise any issue with regard to the notification being issued in 2000, the written and oral test being conducted subsequently, the result being declared in 2002, or the respondents issuing appointment letter on 10.11.2005 and she joining duty on 16.11.2005. It is only after the petitioner joined the service on 16.11.2005, she felt that since, she is appointed against the vacancy for the year 1998-1999, she should be placed over and above the other employees, who were appointed to the said post by way of promotion, as her appointment to the said post was by way of direct recruitment while the private respondents were appointed on transfer by promotion i.e., from Feeder category.



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16. Though the vacancies against which the petitioner was appointed related to the year 1998-1999, since there had been a ban on appointment by direct recruitment, the petitioner though was selected in the year 2002, could not be issued an appointment letter and it is only after the said ban was lifted, the respondents issued the Government Order for appointment of the candidates, who had taken part in the selection process pursuant to the notification issued in the year 2000. It is only after issuance of G.O.Ms.No.97 dated 10.11.2005, the petitioner had joined the service on 16.11.2005 and thus, was borne into service on the said date. Since, the petitioner was borne into service on 16.11.2005, the petitioner cannot seek seniority over the candidates, who were selected through the internal process of transfer by promotion, against the vacancies which were allowed to be filled up by promotion as there was no restriction/ban on such recruitment, and the said selected candidates having been promoted and discharging duties, the petitioner who had subsequently joined the service, cannot claim seniority over the candidates, who were promoted to the said post by way of transfer from Feeder category, only because she is a direct recruitee.

17. The decision of the Hon'ble Apex Court in ***K.Madalaimuthu and another supra*** on which reliance is placed by the petitioner, instead of



advancing the case of the petitioner, would lend support to the case respondents.

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18. The Hon'ble Apex Court in the aforesaid judgment had referred to the decision in *V.Srinivasa Reddy Vs. Government of Andhra Pradesh* reported in *(1995 Suppl (1) SCC 572)* wherein it was held that “ it was also held that the direct recruitee takes his seniority from the date on which he starts discharging the duties of the post borne on the Cadre, while a temporary appointee appointed *de hors* the Rules or on *ad hoc* basis or to a fortuitous vacancy gets seniority from the date of regular appointment.

19. It appears to this Court it is on the basis of the above observation of the Hon'ble Supreme Court, the petitioner is under the impression that she should be placed over the promotees, without noting that the Apex Court having held that a direct recruitee takes seniority from the date of discharging the duties which in the case of petitioner is admittedly from 16.11.2005. If only the respondents had placed employees who were working on *ad hoc* basis as on the date of petitioner joining the duty i.e., on 16.11.2005 and who's services not regularised against the said post as on the date of petitioner joining the service, the petitioner can feel aggrieved. However, it is neither shown to this Court of any private respondent working

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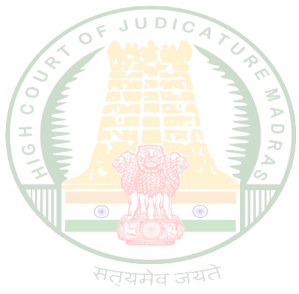


on adhoc basis on the day of petitioner joining the service being placed above the petitioner in seniority though was working on adhoc basis.

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20. Further, the Hon'ble Apex Court further in the case of ***Amit Singh Vs. Ravindra Nath Pandey and others reported in (2022) 20 SCC 559***, had held as under:

“27. This Court in Pawan Pratap Singh case [Pawan Pratap Singh v. Reevan Singh, (2011) 3 SCC 267 : (2011) 1 SCC (L&S) 481] held that the effective date of selection has to be understood in the context of the service rules under which the appointment is made. It may mean the date on which the process of selection starts with the issuance of advertisement or the factum of preparation of the select list, as the case may be. This Court further held that the inter se seniority in a particular service has to be determined as per the service rules. It held that the date of entry in a particular service or the date of substantive appointment is the safest criterion for fixing seniority inter se between one officer or the other or between one group of officers and the other recruited from different sources. It further held that any departure therefrom in the statutory rules, executive instructions or otherwise must be consistent with the requirements of Articles 14 and 16 of the Constitution of India. It further held that the seniority cannot be reckoned from the date of occurrence of the vacancy and cannot be given retrospectively unless it is so expressly



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provided by the relevant service rules. It held that the seniority cannot be given on retrospective basis when an employee has not even been borne in the cadre and by doing so it may adversely affect the employees who have been appointed validly in the meantime.

28. A Bench of three learned Judges of this Court in P. Sudhakar Rao v. U. Govinda Rao [P. Sudhakar Rao v. U. Govinda Rao, (2013) 8 SCC 693 : (2014) 1 SCC (L&S) 690] has approved the law as laid down by this Court in Pawan Pratap Singh [Pawan Pratap Singh v. Reevan Singh, (2011) 3 SCC 267 : (2011) 1 SCC (L&S) 481].”

21. If the ratio laid down by the Hon’ble Apex Court in the aforesaid decisions is applied to the facts of the present case, the date of entry of the petitioner is to be considered on the basis of the Service Rules. Since, Rule 35 (aa) of Tamil Nadu Subordinate Service Rules prescribes that the seniority is to be reckoned with reference to the date on which he/she is appointed to the Service, Class, Category or Grade, the seniority of the petitioner is to be fixed on the basis of the date of appointment under G.O.Ms.No.97 dated 10.11.2005 and date of discharging the duties i.e from 16.11.2005 not from an anterior date.



22. Thus, the petitioner, who was not even borne into service 16.11.2005, though taken part in the selection process pursuant to the issuance of notification by the respondents, cannot claim seniority over the candidates/employees, who were appointed to the said post as per the Rules by way of transfer by promotion and having joined on the respective dates. Further, the petitioner cannot be allowed to claim such employees to be juniors to her, being selected from Feeder category only on the basis that post to which she was recruited related to the year 1998-1999 and she being direct recruitee to the said post should take seniority over the promotees.

23. In view of the above, this Court is of the view that the challenge to the impugned proceedings by the petitioner is misconceived. Accordingly, the writ petition fails and is dismissed. Consequently, connected miscellaneous petitions are closed. No order as to costs.

24.07.2026

Speaking order / Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
dh



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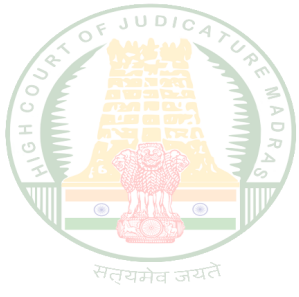


To

1. The Principal Secretary to Government,
Micro, Small & Medium Enterprises [E1.(1)] Department,
Government of Tamil Nadu,
Fort St. George, Chennai – 600 009.

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2. The Industries Commissioner &
Director of Industries and Commerce,
Chepauk, Chennai – 600 005.



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dh

Pre-delivery order made in
W.P.No.6108 of 2012

24.07.2026