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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON :02.06.2026

PRONOUNCED ON: 13.07.2026

CORAM :

THE HONOURABLE DR.JUSTICEANITA SUMANTH

W.A.Nos.2308 and 1027 of 2022

and C.M.P.Nos.17641 & 21771 of 2022 and 10370 & 5739 of 2023

W.A.No.2308 of 2022:

1.M.Sheik Abdullah

2.S.Ilangovan

3.N.Ganesh

... Appellants

Vs.

1.N.Mahalingam

2.M.Kanchana

3.V.Kala

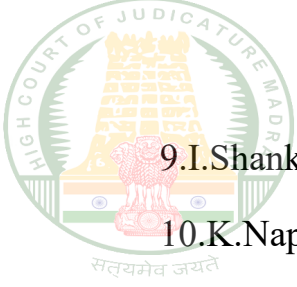
4.D.Latha

5.A.Mohandas

6.T.Karthi

7.N.Lingeswaran

8.P.Senthil Kumar



9.I.Shankar

10.K.Napoleon

11.The Government of Tamil Nadu,
Represented by its Secretary,
The Commercial Taxes and
Registration Department,
Fort St.George, Chennai – 600 009.

12.The Inspector General of Registration,
O/o. The Inspector General of Registration,
No.100 Santhome High Road,
Chennai – 28.

13.R.Sridhar

14.N.Santhakumar

15.T.Daivasigamani

16.G.P.Paramaguru

17.S.Subramanian

18.S.Gunasekaran

19.S.Soundarapandian

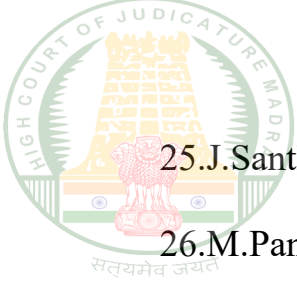
20.T.Elaiyaraja

21.V.Kalavathi

22.G.Ashok Kumar

23.C.Boopathy Kannan

24.R.Senthil Kumar



25.J.Santhamaria

26.M.Pandian

27.G.Srinivasan

28.S.Malligeswaran

29.V.A.Raja

30.R.Baskar

31.K.Meenakshi Sundaram

32.B.Vairamani

33.B.Jansi

34.Menaka

35.K.Kasthuri

36.N.Mohanraj

37.K.Mahendran

38.P.Sokkalingam

39.G.Jayanthi

40.P.Manoharan

41.K.Asaithambi

42.J.Suman Prabhu

43.M.Ravichandran

44.S.Jagatheesan



45.G.Anitha

46.K.Hariharan

47.M.Logeshbabu

48.J.Prabu

49.S.Shoban Babu

50.B.Gopi

51.M.Velu

(30th Respondent was impleaded vide order dated 06.03.2023 made in CMP.No.1744 of 2023 in W.A.No.2308 of 2022)

(Respondents 31 to 51 were impleaded vide order dated 06.03.2023 made in C.M.P.No.1784 of 2023 in W.A.No.2308 of 2022)

... Respondents

W.A.No.1027 of 2022:

1.Mr.R.Sridhar

2.G.P.Paramaguru

3.T.Elaiyaraja

4.G.Srinivasan

5.S.Malligeswaran

6.V.A.Raja

... Appellants

Vs.

1.N.Mahalingam



2.M.Kanchana

3.V.Kala

4.D.Latha

5.A.Mohan Dass

6.T.Karthi

7.N.Lingeswaran

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14.T.Daivasigamani

15.S.Subramanian

16.S.Gunasekaran

17.S.Soundarapandian

18.V.Kalavathi

19.G.Ashok Kumar

20.C.Boopathy Kannan

21.M.Sheik Abdullah

22.R.Senthil Kumar



23.S.Ilangovan
24.J.Shantha Maria
25.M.Pandian
26.N.Ganesh

... Respondents

Common Prayer: Writ Appeals filed under Clause 15 of the Letters Patent praying to set aside the order dated 03.03.2022 made in W.P.No.23342 of 2019.

For Appellants

in W.A.No.2308 of 2022 : Mr.M.Ravi

For Appellants

in W.A.No.1027 of 2022 : Mr.A.Palaniappan

For Respondents – 1, 2, 9, 10 &
30 to 51 in W.A.No.2308 of 2022
and

For Respondents – 1, 2, 4, 8, 9
& 10 in W.A.No.1027 of 2022

: Mr.V.Prakash
Senior Counsel
for Mr.K.Krishnamoorthy
Mr.V.Neethidurai

For R3 in W.As.2308 & 1027 of 2022 :

For R11 and 12 in W.A.Nos.2308
& 1027 of 2022

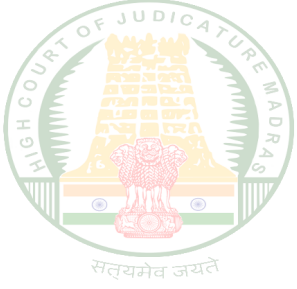
: Mr.R.Neelagandan
Additional Advocate General
Assisted by Mr.P.Harish
Government Advocate

For R5 to R7

: No appearance

Not ready in notice for R4 to R8 in W.A.No.2308 of 2022

R13 to R29 in W.A.No.2308 of 2022 – Notice dispensed with



COMMON JUDGMENT

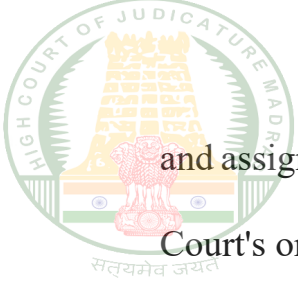
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This matter has been referred to me as third member in light of cleavage of opinion expressed by two Hon'ble Judges of this Court.

2. WP No.23342 of 2019 was filed by 10 petitioners, arraying the State and officials as R1 & R2, and 19 individuals (impleaded on various dates), as private respondents. The prayer was a challenge to proceedings dated 07.6.2016 of R1 and R2 and a consequential seniority list dated 02.02.2018, wherein the private respondents/Appellants had been placed above the writ petitioners/Respondents in seniority. A consequential direction was sought to the official respondents, to treat the writ petitioners as seniors to the private respondents, and issue orders of promotion to the petitioners to the post of Sub-Registrar II.

3. In a nutshell, the issue pertained to, as the learned Single Judge has said, *'the age old and never ending controversy in service jurisprudential landscape'* being the fixation of inter se seniority between direct recruits and promotees.

4. After a detailed discussion of the rival contentions, the writ petition came to be allowed on 03.03.2022, impugned proceedings dated 07.06.2016 and 02.02.2018 were set aside and the official respondents directed to prepare a fresh seniority list



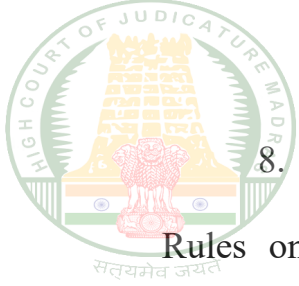
and assign proper seniority as between the petitioners and private respondents per the Court's order, within a time frame fixed by the Court.

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5. As against that order, two writ appeals came to be filed being W.A.No. 2308 of 2022 by three of the original Writ respondents and W.A.No.1027 of 2022 by six of the original writ respondents.

6. There was a dichotomy of views with Hon'ble Justice S.S.Sundar dismissing the writ appeals (hereinafter referred to as, Order I) but Hon'ble Justice C.Saravanan allowing the writ appeals (hereinafter referred to as, Order II) by their respective orders, dated 29.04.2025. It is hence that the matter has come to be placed before me. The parties are referred to as per their array in these Appeals.

7. The private Respondents are direct recruits, whereas the Appellants are promotees in the Registration Department of the State of Tamil Nadu. The sequence of dates and events, insofar as they are admitted by both parties, are that the Appellants were appointed as Junior Assistants in the Tamil Nadu Registration Department on 06.03.2007. Their appointments were in terms of Rule 10(a)(i) of the Tamil Nadu State and Subordinate Services Rules (hereinafter referred to as, Rules), temporary appointments.



8. Annexure-IX-C was introduced in the Tamil Nadu Ministerial Service Rules on 17.04.2012 by G.O.Ms.No.56. The Rule was made retrospectively applicable with effect from 09.04.2010, and Rule 9 of Annexure-IX – C mandated that interstate seniority was to be reckoned in line with Rule 35(aa) of the Rules. On 20.07.2012 the service of the Appellants was regularized in the cadre of ‘Junior Assistant’ with effect from their date of joining, that is from 15.03.2007, post the concurrence of the TNPSC as required under Rule 16 (b) of the Rules.

9. The period of commencement of probation was from 28.08.2012 as per communication dated 28.08.2012. The service rules also mandated training in Bhavani Sagar and the declaration of commencement of Bhavani Sagar training was on 21.11.2012. The Appellants completed the training at Bhavani Sagar on 18.12.2014, and on 18.03.2016, their probation was declared.

10. The consolidated seniority list to the post of SRO Grade II (Sub Registrar-Grade II) was drawn on 07.06.2016 and, as the Appellants had been placed below the Respondents in seniority, they had appealed under Rule 35 (f) of the Subordinate Service Rules as against the fixation of their seniority below the respondents, contending that their training and consequent declaration had been delayed on account of reasons not attributable to them and hence the seniority should be revisited. Their plea was accepted, and on 20.03.2017 the seniority of the Appellants



was revised, the authorities proceeding on the basis that the delay in completion of their probation was on account of administrative reasons over which the Appellants

had no control.

11. The seniority was revised retrospectively with effect from 24.11.2011 and a revised seniority list was issued for the post of Sub Registrar - Grade II on 02.02.2018, challenging which the direct recruits had instituted the writ petition. On 06.01.2014 the appellants were appointed as Assistants by transfer from the post of Junior Assistant, and according to the Appellants, this constitutes a transfer by promotion.

12. Now coming to the direct recruits/Respondents, the admitted sequence of events is as follows. On 09.04.2010, G.O.Ms.No.47 had been issued by the State, earmarking vacancy of 50% in the post of Assistant in the Registration Department. The aforesaid Government Order further stated that the vacancies shall be fixed by direct recruitment, the process for which was to be put in place by the Tamil Nadu Public Service Commission (TNPSC).

13. In May 2010, the respondents cleared the departmental examination for qualifying for the post of Assistant. G.O.Ms.No.183 was then issued on 31.05.2010 determining the vacancy for appointment as Assistants at a figure of 320. A Notification was issued on 30.12.2010 by the TNPSC calling for applications for the



aforesaid posts and on 23.11.2012, the respondents were appointed in the post of Assistants.

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14. According to the respondents, it is the aforesaid date that is relevant as far as their claim of seniority is concerned, for which purpose they rely on Section 3 (r) of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016 (2016 Act).

15. The above narration has captured the two separate trajectories, qua the service of (i) the promotees/Appellants from 2007 onwards and (ii) the direct recruits/Respondents from 2012 onwards.

16. The detailed submissions of Mr.Palaniappan and Mr. Ravi, learned counsel for the Appellants, Mr.V.Prakash, learned Senior Counsel for Mr.K.Krishnamoorthy and Mr.Neelagandan, learned Additional Advocate General assisted by Mr. P.Harish, learned Government Advocate and Mr.V.Neethidurai, learned counsel for the Respondents, have been heard.

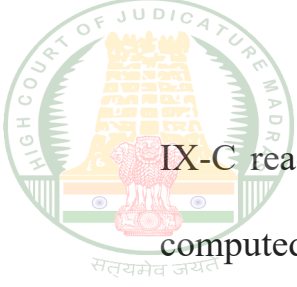
17. Mr.Prakash would support both order dated 29.04.2025 allowing the writ petition and confirmation thereof under Order I, for the simple reason that the appointment of the direct recruits/Respondents was prior in time when compared with the promotees/Appellants.



18. He would submit that the correct interpretation of Rule 35(aa) had been taken into account in passing the writ order and Order I. The legal error that arose in Order II relates to the learned Judge having misconstrued the interpretation of the Service Rules insofar as they relate to seniority and promotion. Seniority is to be reckoned as on the date of entry to service and ought not to be mixed with the concept of promotion which is a separate and distinct concept.

19. The challenge was to the drawing up of the seniority list, and the relevant criterion for this is the date of entry of the individuals into different cadres of service. As the dates would show, it is the direct recruits who have entered service to the post of Assistants, earlier in time, and hence, the order passed on 29.04.2025 allowing the Writ Petition, and Order I confirming the same, set out the correct position in law.

20. The written submissions filed by the appellants and respondents have also been perused carefully. As far as the appellants are concerned, their grounds may be summarized to say that the respondents ought not to have approached the writ Court without exhausting the departmental remedy, the entry of the appellants as a compassionate appointment is irrelevant, the delay on the part of the authorities in sending them for training cannot enure to their detriment and that the claim of the respondents in relation to seniority from 30.12.2010 is contrary to Rule 8, Annexure



IX-C read with Rule 35(aa) of the Rules which requires inter se seniority, to be computed from date of appointment only.

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21. In fact, the authorities themselves have, taking note of the undue delay in completion of Bhavani Sagar training, revised the seniority on two occasions, firstly, by passing G.O.3D(7) on 01.07.2013 declaring the probation of R.Senthilkumar, V.A.Raja and C.Anbuselvan from 14.03.2009 as they had been appointed on 15.03.2007 and, secondly, by passing order dated 20.03.2017 revising retrospectively the declaration of probation in the case of V.A.Raja, with effect from 24.11.2011, on similar grounds as in the earlier case.

22. The respondents have not challenged order dated 20.03.2017. Hence, and having accepted that order, the challenge to revised seniority list dated 02.02.2018 ought not to have been entertained. That apart, the appellants would also argue that all necessary parties had not been arrayed, and hence the writ petition had suffered from non-joinder of necessary parties.

23. The respondents, in summary, rely on the position under the Tamil Nadu Ministerial Service Rules which is a special rule governing the service of typists, steno-typists, junior assistants and assistants, referring to the Tamil Nadu State and Subordinate Rules as a general rule applicable to all posts. Relying on the definitions of 'appointment', 'date of commencement of probation', 'promotion', 'promotion to



selection category', 'seniority', 'temporary appointments' and 'temporary promotions', and relying on the judgments in the case of *K.Madalaimuthu and Others V. State of Tamil Nadu and Other*¹, *M.P.Palanisamy and Others V. A.Krishnan and Others*² and order dated 15.04.2024 in *W.A.(MD) No.610 of 2022*,

they would submit that the order under appeal granting promotion to them, is in accordance with seniority. In fact, the department has implemented the judgment and has granted promotion and there is no justification in reversing that decision now.

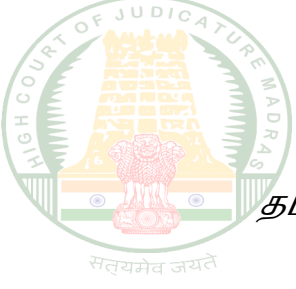
24. Having heard the parties, and having perused carefully the two opinions of the Hon'ble Judges, my view is as follows. My remit is to decide the veracity of the seniority list dated 02.02.2018 in so far as it relates to inter se seniority of the Appellants/Promotees, and Respondents/Direct Recruits. In fact, all learned counsel have acceded to the position that the list in these matters relates to the fixation of inter se seniority only.

25. The date of appointment of the Appellants as Junior Assistants is 06.03.2007, and the nature of appointment is a temporary appointment under Rule 10 (a)(i)(ii) of the Rules. A sample of their appointment letter is as follows.

பதிவஞ்சலில்/ஒப்புதலுடன்

¹ Foot note Supra (1)

² 2009 (6) SCC 428



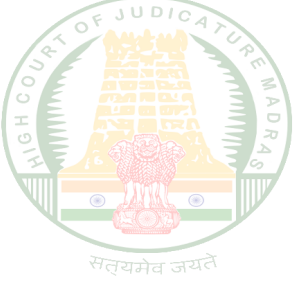
தமிழ்நாடு பதிவுத்துறைத்தலைவர் அவர்களின் நடவடிக்கைகள்,
சென்னை 28

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முன்னிலை: திரு. க.முத்துசாமி இ.ஆ.ப.,
எண். 9980/கே4/2007 நாள் 06.03.2007

பொருள்: பணி- தமிழ்நாடு அமைச்சுப்பணி - கருணை அடிப்படையில்
நியமனம் - இளநிலை உதவியாளர்கள்
கருணை அடிப்படையில் நியமன ஆணை பிறப்பித்தல் -
தொடர்பாக.

- பார்வை: 1. அரசாணை எண். 314, தொழிலாளர் மற்றும்
வேலைவாய்ப்புத்துறைநாள். 13.11.1994
2. அரசாணை எண். 120, தொழிலாளர் மற்றும்
வேலைவாய்ப்புத்துறைநாள். 26.6.1995
3. அரசாணை எண். 143, தொழிலாளர் மற்றும்
வேலைவாய்ப்புத் (க்யூ-1) துறைநாள். 11.11.1998
4. அரசாணை எண். 154, பணியாளர் மற்றும்
நிர்வாக சீர்திருத்தத்துறை துறைநாள். 29.11.2001
5. அரசாணை எண். 61, தொழிலாளர் மற்றும்
வேலைவாய்ப்புத்துறைநாள். 19.07.2006
6. அரசாணை எண். 154, பணியாளர் மற்றும்
நிர்வாக சீர்திருத்தத்துறை துறைநாள். 19.09.2006
7. அரசாணை எண். 135, தொழிலாளர் மற்றும்
வேலைவாய்ப்புத் (02) துறைநாள். 4.10.2006
8. அரசாணை (டி) எண். 659, வணிகவரி மற்றும் பதிவுத்
(எச்2) துறைநாள். 28.12.2006



9. சம்பந்தப்பட்ட மாவட்டப்பதிவாளர்/துணைப்பதிவுத் துறைத்தலைவர்களிடமிருந்து பெறப்பட்ட அறிக்கைகள்

10. சம்பந்தப்பட்ட கோப்புகள்

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ஆணை:

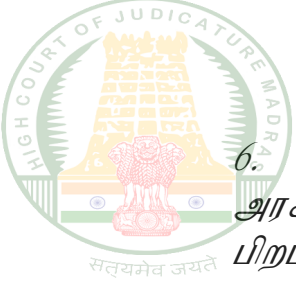
பார்வை (5)ல் கண்ட அரசாணையின்படி கருணை அடிப்படை நியமனத்திற்கு விதிக்கப்பட்டிருந்த தடை நீக்கப்பட்டதைத் தொடர்ந்து, பதிவுத்துறையில்பணிபுரிந்து பணியிலிருக்கும் போது இறந்த/ மருத்துவ இயலாமை ஓய்வு பெற்ற இணைப்பில் கண்ட பட்டியலில்கலம்(2)ல்கண்ட நபர்களின்வாரிசுகளிடமிருந்து கருணை அடிப்படையில் நியமனம் வழங்குமாறு பார்வை (9)ல் கண்ட முன்மொழிவுகளுடன் பெறப்பட்ட மனுதாரரின் சான்றுகள், அறிக்கைகள், முன்மொழிவுகள் பரிசீலனை செய்யப்பட்டன.

2.பார்வை (8) கண்ட அரசாணையில் ஒப்புதல் அளிக்கப்பட்டபடி, கருணை அடிப்படையிலான நியமனத்திற்கு தகுதி பெற்றஇணைப்புபட்டியலில்கலம்(5)ல் கண்டவாரிசுகளுக்கு இளநிலை உதவியாளர்பணியிடத்தில்பொதுவிதி10(a)(i)ன்படிதற்காலிகநியமனம் வழங்கப்படுகிறது.

3. மேற்படிகலம் (5) ல் கண்டநபர்களுக்கு இடநியமன ஆணை உடன்வழங்கும்படி சம்பந்தப்பட்ட மாவட்டப்பதிவாளர்கள்/ துணைப்பதிவுத்துறைத்தலைவர்கள்கோரப்படுகிறார்கள். இவர்கள் பணியில்சேரும்முன்உரிய படிவத்தில்உடல் நலத்தகுதிச் சான்றிணை பெற்று இவ்வலுவலகத்திற்கு அனுப்பிவைக்குமாறு மாவட்டப் பதிவாளர்கள்/துணைப்பதிவுத்துறைத்தலைவர்கள் கேட்டுக்கொள்ளப்படுகிறார்கள்.

4. இவர்கள்பணியில்சேர்ந்தநாள்முதல்நா.3200-85-4900 என்ற ஊதிய விகிதத்தில்ஊதியநிர்ணயம்செய்யப்பட வேண்டுமென அறிவிக்கப்படுகிறது.

5. இந்த நியமனம் முற்றிலும் தற்காலிகமானது.



6. இவர்களதுநியமனம் அங்கீகரிக்கப்பட்டு பார்வை 3ல்கண்ட
அரசாணையின் அடிப்படையில் வரன்முறை செய்து ஆணை
பிறப்பிக்கப்படும்.

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7. மேற்படி நபர்கள் பணியில் சேர்ந்த உடன்தவறாது பணிசேர்
அறிக்கையினை அனுப்பி வைக்க மாவட்டப்பதிவாளர்கள்/
துணைபதிவுத்துறைத் தலைவர்கள் கேட்டுக்கொள்ளப்படுகிறார்கள்.
/ஆணைப்படி/

Sd/-

பதிவுத்துறைத் தலைவருக்காக

26. The letter above makes it clear that their appointment was temporary, and subject to regularisation following the required process under the Rules. Regularization of the services of the Appellants as Junior Assistants was by G.O.2(D).No.141 dated 20.07.2012, and their services were regularised from their date of joining, that is, from 15.03.2007 onwards.

27. Though the commencement of their probation was from 28.08.2012, the training at Bhavani Sagar took place between 21.11.2012 and 01.07.2013. Therefore, technically, it is only with the completion of training that the probation could have been said to have been validly declared, and their services regularized. Be that as it may, it was only on 06.01.2014 that the appellants were appointed, by transfer from the post of Junior Assistant, to the post of Assistant, whereas the respondents were appointed to the post of Assistant on 18.12.2012 itself.

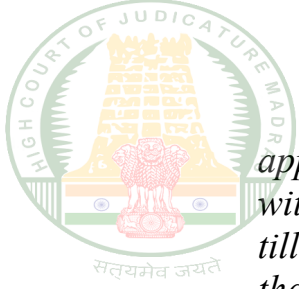


28. Thus, the fact that the authorities concede to administrative delay in training and declaration of probation need not detain me and for the purposes of this case, it would suffice that one compares the dates of appointments of the appellants/promotees and Respondents/Direct Recruits to the post of Assistant.

29. In *K.Madalaimuthu and others v. State of Tamil Nadu and others*³, the Supreme Court had occasion to deal with a similar issue, relating to inter se seniority between persons appointed on a temporary basis, and direct recruits. The Court concluded that the date of entry of temporary employees would begin to run only from the date when their services were regularised, and this position would have to be taken note of when determining inter se seniority with regularly appointed employees. The relevant portion of the judgment reads thus:

24. On a consideration on the submissions made on behalf of the respective parties and the decisions cited on their behalf, the consistent view appears to be the one canvassed on behalf of the appellants, the decisions cited by Mr. Rao have been rendered in the context of Rule 10 (a) (i) (1) and the other relevant rules which are also applicable to the facts of the instant case. Apart from the above, the law is well settled that initial appointment to a post without recourse to the rules of recruitment is not an appointment to a service as contemplated under Rule 2 (1) of the General Rules, notwithstanding the fact that such appointee is called upon to perform duties of a post borne on the cadre of such service. In fact, Rule 39 (c) of the General Rules indicates that a person temporarily promoted in terms of Rule 39 (a) is required to be replaced as soon as possible by a member of the service who is entitled to the promotion under the rules. It stands to reason that a person who is

³ (2006) 6 SCC 558



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appointed temporarily to discharge the functions in a particular post without recourse to the recruitment rules, cannot be said to be in service till such time as his appointment is regularized. It, therefore, follows that it is only from the date on which his services are regularized that such appointee can count his seniority in the cadre.

25. In the instant case, the authorities, on the strength of the several government orders giving retrospective effect to the regularization of the promotees, have taken the date of initial appointment of such promotees as the starting point of their seniority. In our view, such a course of action was erroneous and contrary to the well established principles relating to determination of seniority. In our view, the High Court took an erroneous view in the matter in applying Rule 4 of the General Rules and holding that the period during which the promotees had initially discharged the duties of District Registrars, though appointed temporarily under Rule 10 (a) (i) (1), was to be counted for determining their seniority. The decision of this Court in L.Chandrakishore Singh (1999) 8 SCC 287 relied on by Shri.Venkataramani did not involve the question of persons appointed outside the service as a stop-gap arrangement. The fact situation of the said decision is different from the fact situation of the instant case which finds support from the decisions cited by Mr.Rao.

26. We, therefore, set aside the order passed by the High court and direct the respondents concerned to redetermine the seniority of the appellants in relation to the promotees after reckoning the starting point of seniority of such promotees from the date on which their services were regularized and not from the date of their initial appointment under Rule 10(a)(i)(1) of the General Rules.

27. The appeals, therefore, succeed and are disposed of with the aforesaid directions. There will be no order as to costs.

30. For the reasons as above, I concur with the view of the Writ Court dated 03.03.2022 and the ratio of Order I dated 29.04.2025, confirming the aforesaid order, and would hence dismiss these Appeals.



13.07.2026

Index : Yes

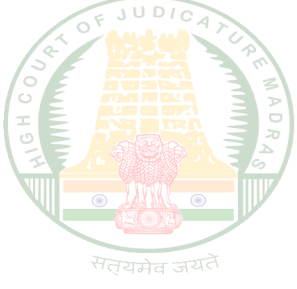
Speaking order

Neutral Citation: Yes

Sl

To

- 1.The Government of Tamil Nadu,
Represented by its Secretary,
The Commercial Taxes and
Registration Department,
Fort St.George, Chennai – 600 009.
- 2.The Inspector General of Registration,
O/o. The Inspector General of Registration,
No.100 Santhome High Road,
Chennai – 28



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Dr.ANITA SUMANTH,J.

Sl

W.A.Nos.2308 and 1027 of 2022
and C.M.P.Nos.17641 & 21771 of 2022 and 10370 & 5739 of 2023

13.07.2026