

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 10.03.2015

DELIVERED ON : 31.03.2015

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

W.P.Nos.11292, 12328, 17087, 24167 and 24202 of 2014  
& Connected MPs

M. Jagadeesan ....Petitioner in W.P.No.11292/2014

K.K.Manjula  
A.Ramesh  
M.Muthukanna  
K.Meenakumari  
S.Sudaroli  
S. Sathiyapriya  
A. Sureshkumar  
M. Raja  
V. Chinnaraj  
M. Manivannan  
P.Kannan  
P.M. Anandakumar  
PP. Sumathi  
M. Selvakumar  
P. Sakthivel  
A.S.R.Selvanarayanassamy  
R. Periasamy  
K. Raja  
T. Poongodi  
V. Buvaneshwari  
S. Vani

...Petitioners in W.P.No.12328/2014

A. Mohamed Jaffar Sadiq ...Petitioner in W.P.No.17087/2014

Balasubramaniam  
U.S. Arumugam ...Petitioners in W.P.No.24167/2014

S.Arulmani  
C.Rajasekaran  
S. Sivakumar  
K. Chinthanai Selvam  
A. Vellaisamy  
V. Sundaram ...Petitioners in W.P.No.24202/2014

- Vs.-

1. The Secretary to Government  
Commercial Taxes and Registration Department  
Fort St. George  
Chennai-600 009.
2. The Inspector General of Registration  
No.100, Santhome High Road  
Chennai-600 028.
3. The Tamil Nadu Public Service Commission  
Rep. by its Secretary  
Chennai-600 002. ...Respondents 1 to 3 in all W.Ps.
4. S.Arulmani
5. U.S.Arumugam
6. A. Abdul Samathu
7. C.Rajasekaran
8. S. Sivakumar
9. K. Chinthanai Selvam
10. A. Vellaisamy
11. V. Sundaram
12. Balasubramaniam
13. M. Jagadeesan ...Respondents 4 to 13 in W.P.No.17087/2014

A. Mohamed Jaffar Sadiq ...4th respondent in W.P.No.24202/14  
R4 impleaded as per order  
in M.P.No.4 of 2014 in  
W.P.No.24202 of 2014

Prayer in W.P.No.11292 of 2014 : Writ Petition filed under Article 226 of the Constitution of India praying for a writ of Mandamus directing the respondents to implement the orders of the Honourable Supreme Court of India in Civil Appeal Nos.2791 to 2793 of 2002 dated 4 July 2006 and consequently re-fix the seniority of the petitioner in the cadre of Sub Registrars Grade II, Sub registrars Grade I and District Registrars and further consider the case of the petitioner for promotion on such re-fixation to the cadres of Assistant Inspector General of Registration and Deputy Inspector General of Registration.

Prayer in W.P.No.12328 of 2014 : Writ Petition filed under Article 226 of the Constitution of India praying for a writ of Mandamus directing the respondents to implement the orders of the Honourable Supreme Court of India in Civil Appeal Nos.2791 to 2793 of 2002 dated 4 July 2006 and consequently re-fix the seniority of the petitioners in the cadre of Sub Registrars Grade II, Sub registrars Grade I and District Registrars and consider the case of the petitioners for further promotion on such re-fixation.

Prayer in W.P.No.17087 of 2014 : Writ Petition filed under Article 226 of the Constitution of India praying for a writ of Mandamus forbearing the respondents 1 to 3 from in any manner promoting the respondents 4 to 13, Juniors to the petitioner, to the post of Deputy Inspector General of Registration for the ensuing panel for the year 2011-2012 and subsequent panels and consequently directing the respondent to place the petitioner above the respondents 4 to 13 in the promotion panel for the post of Deputy Inspector General of Registration in the order of seniority and for the subsequent promotions.

Prayer in W.P.No. 24167 and 24202 of 2014 : Writ Petitions filed under Article 226 of the Constitution of India praying for a writ of Certiorari calling for the entire records of the second respondent bearing reference No.59362/A1/2012 including the order dated 12 August 2014 and quash the same.

For Petitioners : Mr.R. Thiagarajan  
Senior Counsel  
for Mr.V.G. Sureshkumar  
in W.P.Nos.11292, 12328 & 24202 of 2014  
and for RR4, R7 to R11 in  
W.P.No.17087 of 2014.

Mr.Suresh Kumar  
for Petitioner in W.P.No.17087/2014

Mr.V.Vijay Shankar  
for petitioner in W.P.No.24167 of 2014  
& respondent Nos.5,6 and 12 in  
W.P.No.17087/2014

For Respondents : Mr.P.H. Aravindh Pandian  
AAG  
Assisted by Mr.P.Sanjaigandhi  
AGP for RR.1 and 2

Ms.C.N.G. Niraimathi for R.3

Mr.R. Suresh Kumar for M/s.K.M.Vijayan  
Associates for R.4 in W.P.No.24202 of  
2014

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ORDER

This is a peculiar case in which proceedings dated 14 October 2011 and 30 October 2012 revising the seniority in the cadre of Sub Registrar Grade II and Sub Registrar Grade I, pursuant to the

direction issued by the Supreme Court in K. Madalaimuthu & Ors v. State of Tamil Nadu & Ors.(2006) 6 SCC 558, were cancelled on the ground that the High Court in its order dated 7 October 2009 in W.P.No.33045 of 2006 and the Supreme Court in a catena of decisions have held that seniority cannot be unsettled after a considerable period, notwithstanding the fact that the order in W.P.No.33045 of 2006 has already been set aside by the Division Bench in W.A.No.1433 of 2010.

W.P.Nos.11292, 12328, 24167 and 24202 and of 2014:

The facts:

2. The petitioners were directly recruited as Sub Registrars through Tamil Nadu Public Service Commission in 1992, 2001 and 1986 respectively. The petitioners were later promoted as District Registrars and Assistant Inspector General of Registration.

3. The services in the Registration Department are governed by the Tamil Nadu State and Subordinate Services Rules 1955 (hereinafter referred to as "General Rules") and Tamil Nadu Registration Services Rules, 1969 (hereinafter referred to as "Special Rules"). The Special Rules provided for two class of officers. Class-I comprise of Inspector General (Registration) and class-II provided for two categories viz., the Inspector of Registration Officers and District Registrars. Subsequently the post of District Registrar was included in the third category. The Government have resorted to recruitment of District Registrars directly or by transfer from Tamil Nadu Registration Subordinate Services. The posts of District Registrar were to be filled up by direct recruitment and by recruitment by transfer from the Madras Registration Subordinate Services in the proportion of 1:5 provided a number of substantive vacancies filled or reserved to be filled by direct recruitment was not to exceed three at a given time. The Government in modification of the earlier orders prepared a temporary list of officers, who were fit for appointment by transfer to the post of District Registrar pending finalisation of regular list in consultation with the Tamil Nadu Public Service Commission.

4. The Government passed various orders regularising the services of candidates from the Tamil Nadu Registration Subordinate Services who had been temporarily appointed to function as District Registrars. By virtue of the order passed by the State Government, the services of the officers appointed under Rule 10(a)(i)(1) of the General Rules were regularised. This made the directly recruited District Registrars to make a claim that their seniority should be counted from the year 1986 when the first set of transferee officers were sought to be regularised. The claim was turned down by the Government in view of Rule 2(1) of the General Rules which provides that a person is said to be appointed to a service only when he

discharges for the first time the duties of a post borne on the cadre and commencement of probation.

5. The directly recruited District Registrars filed Original Applications in O.A.Nos.779/1995, 1067/1995, 1068/1995, 7329/996 and 1181/1997 before the Tamil Nadu Administrative Tribunal praying for a direction to the Government to fix their inter se seniority for the year 1986 and to place them above the promotees for the said year in the inter se seniority list. The Tribunal by order dated 10 August 1998 dismissed the original applications. The common order dated 10 August 1998 was unsuccessfully challenged before the High Court in W.P.No.16806 of 1998, 1548 and 1549 of 1999. The matter was taken up to Supreme Court by directly recruited District Registrars. The Civil Appeal Nos.2791 to 2793 of 2002 were allowed by the Supreme Court by order dated 4 July 2006. The Supreme Court after setting aside the order passed by the High Court directed the Government to redetermine the seniority of the appellants therein taking into account the date of regularisation of the services of temporary appointees and without reference to the date of initial appointment.

6. The second respondent by order dated 14 October 2011 revised the seniority in the cadre of Sub Registrars-II. Thereafter seniority in the cadre of Sub Registrar - I was revised as per order dated 30 November 2012.

7. While so, Inspector General of Registration without issuing notice to the concerned Sub Registrars cancelled the earlier orders dated 14 October 2011 and 30 November 2012 on the ground that while revising the seniority, the then Inspector General of Registration has not taken into account the observation made by the High court in its order dated 7 October 2009 in W.P.No.33045 of 2006. The Inspector General of Registration in the said order dated 12 August 2014 further stated that the Division Bench of the High Court and the Supreme Court time and again made it clear that seniority cannot be unsettled and the claim of seniority cannot be entertained after a lapse of ten years. The order passed by the Inspector General of Registration dated 12 August 2014 has given rise to the subject writ petitions, at the instance of the affected parties. The petitioners have made a further claim to promote them to the post of Assistant Inspector General and thereafter as Deputy Inspector General of Registration by taking into account the direction issued by the Supreme Court in K. Madalaimuthu.

W.P.No.17087 of 2014:

8. The petitioner is a direct recruit District Registrar. He was selected by the Tamil Nadu Public Service Commission. The petitioner joined the service as District Registrar on 1 July 1998 vide Government Order in G.O.Ms.No.176, Commercial Taxes Department dated 15 June 1998. The petitioner was promoted as Assistant

Inspector General of Registration vide order in G.O.Ms.No.135 dated 3 September 2009. The name of the petitioner was included at Sl.No.8 for promotion to the post of Deputy Inspector General of Registration. However, he was not promoted on account of want of vacancy. The seniority list published by the second respondent dated 2 August 2011 and 25 November 2013 contained the name of the petitioner. He was placed above respondents 4 to 13, who are the petitioners in the connected writ petitions referred to above. It is the grievance of the petitioner that the second respondent has sent a proposal to the Government to place the direct recruit Sub Registrars in the panel of District Registrar for the year 1996-1997 thereby enabling them to get promotion to the post of Deputy Inspector General of Registration. According to the petitioner, respondents 4 to 12 are juniors to him and they were promoted as Assistant Inspector General only after giving him promotion. The petitioner therefore seeks a writ of Mandamus directing the Government not to promote respondents 4 to 13 to the post of Deputy Inspector General of Registration for the ensuing panel for the year 2011-2012 or subsequent panels and to place him above them in the promotion panel for the post of Deputy Inspector General of Registration in the order of seniority.

Defense:

9 (a) The Inspector General of Registration filed a detailed counter affidavit in answer to the contentions taken by the respective petitioners in W.P.Nos.11292, 12328, 24167 and 24202 and 2014. According to the Inspector General of Registration, the Supreme Court directed the Government to re-determine the seniority of the appellants in Civil Appeal Nos. 2791 to 2793 of 2002 in relation to promotees, after reckoning the starting point of the seniority of such promotees from the date on which their services were regularised and not from the date of their initial appointment under Rule 10(a)(1)(i) of the General Rules. Based on the said decision, a combined inter se seniority list of promoted District Registrars and directly recruited District Registrars was drawn and published by the second respondent by order dated 11 April 2008. Thereafter the writ petitioners submitted a representation on 7 July 2011 requesting to re-fix their seniority in the post of Sub Registrar Grade II based on the decision of the Supreme Court in K. Madalaimuthu cited supra. The original application filed by the petitioners in O.A.No.2981 of 1998 was transferred to this Court and it was re-numbered as W.P.No.33045 of 2006. The writ petition was dismissed on the ground that seniority cannot be unsettled after a considerable period. The said order was challenged in Writ Appeal No.1433 of 2010. The writ appeal was allowed and the matter was remanded for fresh consideration. The petitioners have not pressed the said writ petition and as such it was dismissed as withdrawn.

(b). While so, the petitioners, suppressing the initiation of W.P.No.33045 of 2006 submitted a representation on 7 July 2011 to the Inspector General of Registration requesting to re-fix the seniority in the cadre of Sub-Registrar Grade II. The said representation was favourably considered and a revised seniority list in the post of Sub Registrar Grade II was prepared. In the said list, the writ petitioners were placed above the promotees for the year 1983-84. Thereafter Thiru M.Manickam, the then District Registrar (Administration) filed a writ petition in W.P.No.25137 of 2011. Since the writ petitioner died, it has become abated.

(c). Subsequently, taking into account the observation made by the High Court in its order dated 7 October 2009 in W.P.No.33045 of 2006, the Inspector General of Registration recalled the earlier orders dated 14 October 2011 and 30 November 2012. In short, it is the contention of the Inspector General of Registration that the observation made by the High Court that seniority cannot be allowed to be re-opened after a period of more than twenty years made him to recall the earlier orders without notice to the affected parties.

10. The petitioners in W.P.Nos.24167 and 24202 of 2014 filed a counter affidavit in W.P.No.17087 of 2014 disputing the claim made by the petitioner. According to the deponent, who is the twelfth respondent in W.P.No.17087 of 2014 directly recruited Sub Registrars have been agitating for fixing seniority for the past nearly twenty years. The Inspector General of Registration acted pursuant to the direction issued by the Supreme Court in K. Madalaimuthu. The orders were later withdrawn on a wrong footing that the attempt was to revise the seniority after a period of twenty years.

Submissions:

11. Thiru R.Thiagarajan learned Senior Counsel appearing for the petitioners in W.P.Nos.11292, 12328 and 24202 of 2014 contended that the Inspector General of Registration revised the seniority list pursuant to the direction issued by the Supreme Court. Though the order dated 7 October 2009 in W.P.No.33045 of 2006 was set aside by the Division Bench, the Inspector General of Registration relied on the said order for the purpose of recalling the earlier orders fixing the seniority pursuant to the order passed by the Supreme Court in K. Madalaimuthu. According to the learned Senior Counsel in the earlier round of litigation, the very same Inspector General of Registration filed a counter affidavit in W.P.No.25137 of 2011. In the said counter affidavit, the Inspector General of Registration justified the orders dated 14 October 2011 and 30 November 2012. According to the learned Senior Counsel, the petitioners have not pressed the earlier writ petition in W.P.No.33045 of 2006 on account of the revision of seniority by orders dated 14 October 2011 and 30 November 2012. The learned Senior Counsel contended that the Inspector General of Registration was not correct in cancelling the

earlier orders passed in obedience to the direction issued by the Supreme Court.

12. Thiru Vijay Shankar, learned counsel for the petitioner in W.P.No.24167 of 2014 contended that the Inspector General of Registration re-fixed the seniority in the cadre of Sub Registrar Grade II by applying the principles laid down by the Supreme Court in K. Madalaimuthu. The seniority was correctly fixed taking into account the inter se seniority between direct recruits and promotees. The second respondent failed to issue notice to the petitioners before cancelling the earlier orders and as such the order is liable to be set aside on the ground of violation of the principles of natural justice.

13. Thiru Suresh Kumar, learned Counsel for the petitioner in W.P.No.17087 of 2014 and fourth respondent in W.P.No.24202 of 2014 contended that the law declared in K. Madalaimuthu. is not applicable to the facts of this case. According to the learned Counsel, the petitioner should be placed above the promoted District Registrars in view of his earlier appointment and promotion to the post of Assistant Inspector General of Registration.

14. The learned Additional Advocate General supported the impugned order passed by the Inspector General of Registration. According to the learned Additional Advocate General, the petitioners in W.P.Nos.11292, 12328 and 24202 of 2014 filed W.P.No.33045 of 2006. The Writ Court made serious remarks touching their seniority. Although the said writ petition was remanded by the Division Bench subsequently, the petitioners have not pressed it later. According to the learned Additional Advocate General, the earlier orders dated 14 October 2011 and 30 November 2012 were issued without understanding the consequence of the judgment of the Supreme Court in K. Madalaimuthu. Therefore it was rightly recalled at a later point of time.

Discussion:

15. The Government of Tamil Nadu recruited Sub Registrars directly as well as by transfer of service. Similarly the Government have appointed District Registrars by direct recruitment. The petitioners and the respondents belonged to Tamil Nadu Registration Service. Their services are governed by the Tamil Nadu State and Subordinate Services Rules 1955 and Tamil Nadu Registration Services Rules, 1969. The Special Rules provided for two classes of officers viz., class-I comprising Inspector General of Registration and class-II consisting of Inspector of Registration Officers and District Registrars. The Government modified the categorization by including the District Registrars in the third category. The Rules provided that substantive vacancies of District Registrars should be filled or reserved to be filled by direct recruitment and by recruitment by

transfer from the Madras Registration Subordinate Service in the proportion of 1:5 provided that the number of substantive vacancies filled or reserved to be filled by direct recruitment was not to exceed three at a given time. Tamil Nadu Registration Services Rules, 1969 was amended on 26 April 1972 whereby and whereunder the ratio of 1:5 was omitted. In the place of proportion, another condition was specified that substantive vacancies of District Registrars were to be filled or reserved to be filled by direct recruitment or by recruitment by transfer from the Tamil Nadu Registration Subordinate Service in such a manner that there would be at least three directly recruited District Registrars in position at any given time and this would be exclusively of directly recruited District Registrars occupying higher posts in the department or outside. There was a further stipulation that if in any particular year, a direct recruit was to be appointed, he was to be given the first vacancy.

16. The Government prepared a temporary list of officers fit for appointment to the post of District Registrar in 1981, 1982 and 1983, pending finalisation of the regular list in consultation with the Tamil Nadu Public Service Commission. The temporary list for the year 1981 contained the names of 34 Sub-Registrars and the lists of the years 1982 and 1983 consisted of 36 and 25 Sub Registrars respectively. The Government have resorted to temporary appointments by operating Rule 10(a)(i)(1) of the General Rules.

17. The State Government passed various orders regularising the services of those candidates from the Tamil Nadu Registration Subordinate Service who had been temporarily appointed to function as District Registrars under Rule 10(a)(i)(1) of the General Rules. Their services were later regularised.

18. The directly recruited District Registrars having found that the promotees were given seniority over them, challenged the seniority list in O.A.Nos.779 of 1995, 1067 of 1995, 1068 of 1995, 7429 of 1996 and 1181 of 1997 before the Tamil Nadu Administrative Tribunal. The original applications were dismissed by the Tribunal holding that in case the claim is accepted, their seniority will have to date back to a period when they had not even commenced discharging their duties of District Registrars.

19. The common order passed by the Tribunal was challenged before the High Court in W.P.Nos.16806 of 1998 and 1548 of 1999. The High Court took note of the amendment made on 26 April 1972 with respect to proportion and held that the amendment virtually took away the quota available to the directly recruited District Registrars in position at any given time. The High Court concurred with the views expressed by the Tribunal and dismissed the writ petitions. The unsuccessful writ petitioners filed Special Leave Petitions before the Supreme Court.

20. The Supreme Court considered Rule 10(a)(i)(1) of the General Rules and held 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. The Supreme Court allowed the Civil Appeal and issued the following direction:

"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 regularised and not from the date of their initial appointment under Rule 10(a)(i)(1) of the General Rules."

21. The petitioners in W.P.Nos.11292, 12328 and 24202 of 2014 long before the decision of the Supreme Court filed O.A.No.2981 of 1998 for a direction to revise the final seniority list of Sub Registrars Grade II by applying the quota rota system and fix their seniority at the appropriate place. The said writ petition was transferred to this Court and re-numbered as W.P.No.33045 of 2006. The writ petition was dismissed by holding that seniority controversy which was twenty years old cannot be allowed to be re-opened especially for the reason that the affected employees were not made parties.

22. The order dated 7 October 2009 was challenged before the Division Bench in W.A. No.1433 of 2010. The Division Bench opined that the claim of the appellants therein cannot be denied on a technical ground regarding non-joinder of necessary parties. The Division Bench after setting aside the order passed by the learned Single Judge restored the writ petition to file and the appellants were given liberty to file appropriate application for impleading the affected parties. The Division Bench disposed of the writ appeal with an observation that the writ petition would be heard by the learned Single Judge in the presence of the newly impleaded parties without being influenced by the order passed in the writ petition. It is a matter of record that the writ petition was thereafter taken up for consideration. During the currency of the writ petition, the Inspector General of Registration issued orders dated 14 October 2011 and 30 November 2012. The petitioners therein having found that their inter se seniority was fixed correctly, made an endorsement that they are withdrawing the writ petition. The writ petition was accordingly dismissed as withdrawn.

23. The Inspector General of Registration long after the withdrawal of the writ petition in W.P.No.33045 of 2006 recalled the earlier orders dated 14 October 2011 and 30 November 2012 by a very brief order. The material portion of the order dated 12 August 2014 reads thus:

"In the reference cited, based on the representation made by the Directly recruited Sub Registrars, dated 7.7.2011, the then Inspector General of Registration revised the seniority of the Directly recruited Sub Registrars in the cadre of Sub Registrar Grade-II and Sub Registrar Grade-I, respectively without considering the observation of the Hon'ble Court in W.P.No.33045 of 2006 filed by Thiru V. Karnan and others v. Inspector General of Registration and others dated 7.10.2009 that the seniority controversy which was more than 20 years old cannot be allowed to be re-opened.

2. In S. Subramanian Vs. The Joint Registrar of Co-operative Societies, Sivagangai reported in 2007(1)CTC 296, the Division Bench of the Hon'ble Court held inter alia that it is well settled that in the matter of seniority and promotion, the settled position cannot be unsettled and the claim for seniority cannot be entertained after a lapse of 10 years. In catena of decisions, the Honourable Supreme Court and the High Court repeating the ratio that the seniority once settled, shall not be unsettled. Further in the footnote to the proceedings No.57043/A1/2007-2 dated 11.04.2008, it has been specifically mentioned that after 1995, all the panels were drawn only after the concurrence of Departmental Promotion Committee headed by the Tamil Nadu Public Service Commission.

3. In view of the above, it was decided to cancel the proceedings dated 14.10.2011 and 30.11.2012. Accordingly the proceedings No.32551/A3/2011 dated 14.10.2011 and 30.11.2012 is hereby cancelled."

24. The Inspector General of Registration in the first part of the impugned order stated that the earlier orders dated 14 October 2011 and 30 November 2012 were issued without considering the observation of the High Court in W.P.No.33045 of 2006. While cancelling the earlier orders on the ground that the observation in W.P.No.33045 of 2006 was not taken into account, the Inspector

General of Registration omitted to consider the basic fact that the order dated 7 October 2009 has already been set aside by the Division Bench and a direction was issued to the Writ Court to consider the matter afresh without in any way being influenced by the observation made therein. Since the Division Bench has set aside the observation made by the learned Judge in the order dated 7 October 2009 in W.P.No.33045 of 2006, the Inspector General of Registration was not correct in placing reliance on the said observation for the purpose of recalling the earlier orders. In paragraph 2 of the impugned order, the Inspector General of Registration has stated that the High Court in its judgement reported in S. Subramian v. The Joint Registrar of Co-operative Societies, Sivagangai 2007(1) CTC 296 has observed that it is well settled that in the matter of seniority and promotion, the settled position cannot be unsettled after a considerable period. He has also made an observation that the Supreme Court repeated the ratio that seniority once settled cannot be unsettled. While issuing the impugned order, the Inspector General of Registration failed to consider the basic fact that only in obedience to the order passed by the Supreme Court in K. Madalaimuthu the then Inspector General of Registration revised the seniority by order dated 14 October 2011 and 30 November 2012. Neither the observation in W.P.No.33045 of 2006 nor the judgment of the Division Bench in 2007(1) CTC 296 would give a right to the Inspector General of Registration to recall the earlier orders.

25. While setting aside the orders dated 14 October 2011 and 30 November 2012, the Inspector General of Registration has not stated anything on merits.

26. The order dated 14 October 2011 issued by the Inspector General of Registration contained a statement to the effect that seniority was revised pursuant to the judgment of the Supreme Court in K. Madalaimuthu. Similar observation was made in the subsequent order dated 30 November 2012. Therefore it is clear that only in accordance with the direction issued by the Supreme Court in K. Madalaimuthu, the orders dated 14 October 2011 and 30 November 2012 were issued by the Inspector General of Registration.

27. The Inspector General of Registration who passed the impugned order is only a successor in office. The earlier order passed by the Inspector General of Registration cannot be revised mechanically by making a general observation that seniority cannot be unsettled after a considerable period. By re-fixing the seniority, the petitioners in W.P.Nos.11292, 12328 and 24202 of 2014 were given certain rights. Though the impugned orders would involve civil consequences to the petitioners, the Inspector General of Registration failed to issue notice to them. The Inspector General of Registration by cancelling the earlier orders virtually acted as an appellate authority and overlooked the fact that he is only a successor in office.

28. There was an earlier writ petition in W.P.No.25137 of 2011 filed by one Thiru M.Manickam, the then District Registrar (Administration) challenging the order dated 14 October 2011. The Inspector General of Registration in the said writ petition filed a detailed counter affidavit justifying the order dated 14 October 2011. The Inspector General of Registration made it very clear that inter se seniority was revised pursuant to the direction issued by the Supreme Court. It was further stated that the Government has sought for particulars from the Registration Department pursuant to the representation submitted by the Directly recruited Sub Registrars of 1983-84 batch to reconsider their seniority in the light of the Supreme Court judgment and that after consideration of the matter seniority was correctly fixed by order dated 14 October 2011. The Inspector General of Registration is not in a position to produce any material before this Court to substantiate his contention that the orders dated 14 October 2011 and 30 November 2012 were issued under a mistaken impression and by misquoting the direction of the Supreme Court in K. Madalaimuthu.

29. The declaration of law made by the Supreme Court is to the effect that seniority once settled cannot not be unsettled after a considerable period. The said principle cannot be applied in the present case in view of the fact that revision of seniority was made only in accordance with the direction issued by the Supreme Court in K. Madalaimuthu. The Inspector General of Registration cancelled the earlier orders for the reason that seniority was fixed long back and as such it cannot be disturbed after a point of time, not withstanding the fact that his predecessor in interest revised the seniority and that too pursuant to the direction issued by the Supreme Court. I am therefore of the view that there is absolutely no merit in the contention taken by the Inspector General of Registration to justify the impugned orders.

#### Subsequent Events:

30. The learned counsel for the petitioners in W.P.Nos.24167 of 2014 circulated a copy of the order in G.O.Ms.No.36 Commercial Taxes and Registration (H) Department dated 3 March 2015 promoting the writ petitioners in W.P.Nos.24167/2014, 17087/2014 and petitioners 1 to 3 and 5 & 6 in W.P.No.24202 of 2014 as Deputy Inspector General of Registration. In view of the order dated 3 March 2015 there is no merit in the contention taken by the petitioner in W.P.No.17087 of 2014 to the effect that his seniority was overlooked and there is a proposal to promote the petitioners in W.P.No.24202 of 2014 before him as Deputy Inspector General of Registration.

31. The petitioners in W.P.No.24167 of 2014 and 24202 of 2014 were not given notice before cancelling the orders dated 14 October 2011 and 30 November 2012 not withstanding the fact that those orders

have given them certain service rights. Though the cancellation order would involve serious civil consequences, none of the affected parties were heard by the Inspector General of Registration. I am therefore of the considered view that the impugned order is liable to be set aside on the ground of violation of principles of natural justice.

32. The next question is whether the Inspector General of Registration should be directed to restore the orders dated 14 October 2011 and 30 November 2012 and give consequential benefits to the concerned employees. The factual matrix clearly shows that before passing orders dated 14 October 2011 and 30 November 2012, none of the affected parties were heard by the Inspector General of Registration. The setting aside of an order on the ground that it was passed without adhering to the principles of natural justice should not result in giving life to another order passed in violation of the principles of natural justice. I am therefore of the view that interest of justice would be subserved by directing the Inspector General of Registration to consider the issue afresh on merits.

Conclusion:

33. In the result, the impugned order dated 12 August 2014 is set aside. The Inspector General of Registration is directed to issue notice to all the concerned Sub Registrars Grade II and Sub Registrars Grade I and all other affected parties including the petitioner in W.P.No.17087 of 2014 and pass fresh orders determining the seniority and inter se seniority in the post of Sub Registrar Grade II, Sub Registrar Grade I, District Registrar, Assistant Inspector General of Registration and Deputy Inspector General of Registration. Such exercise shall be completed within a period of three months from the date of receipt of a copy of this order. However, I make it clear that this direction would not affect the promotion already made to the post of Deputy Inspector General of Registration vide order in G.O.Ms.No.36, Commercial Taxes and Registration (H) Department dated 3 March 2015.

34. The writ petitions are allowed to the extent indicated above. Consequently the connected MPs are closed. No costs.

Tr/

s/d-

Assistant Registrar( V )

True Copy

Sub-Assistant Registrar

To

1. The Secretary to Government  
Commercial Taxes and Registration Department  
Fort St. George  
Chennai-600 009.

2. The Inspector General of Registration  
No.100, Santhome High Road  
Chennai-600 028.

3. The Secretary,  
Tamil Nadu Public Service Commission  
Chennai-600 002.

+ 1 cc to M/s.V.Vijay Shankar, Advocate SR 18265

+ 1 cc to M/s.K.M.Vijayan Associates, Advocate SR 18313

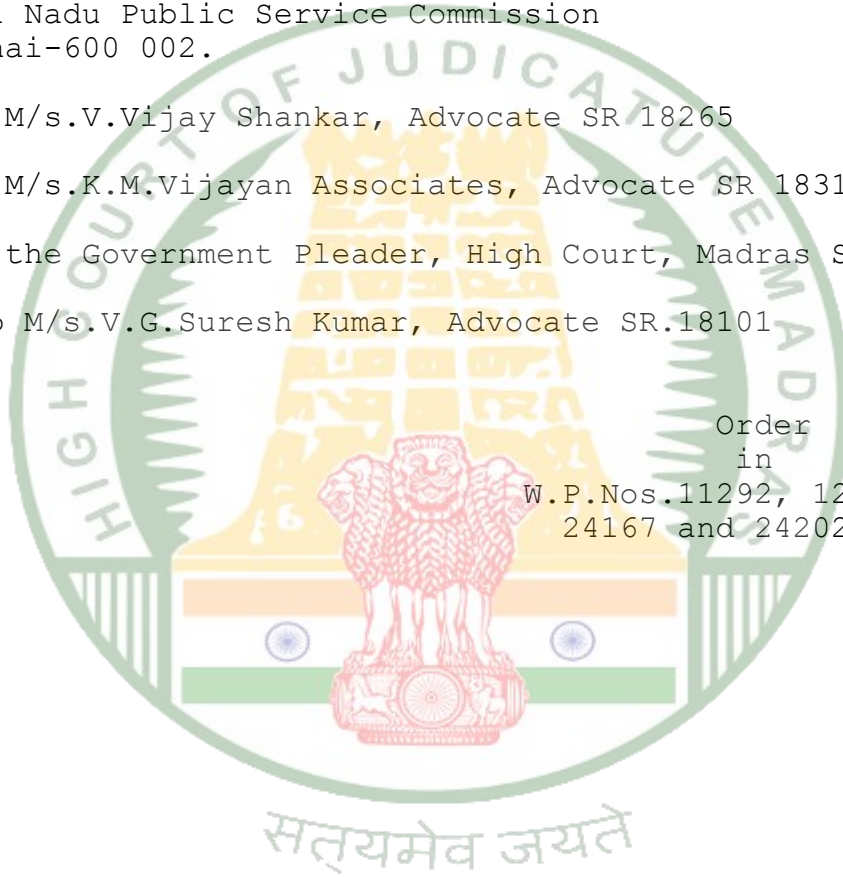
+ 1 cc to the Government Pleader, High Court, Madras SR 18389

+ 3 ccs to M/s.V.G.Suresh Kumar, Advocate SR.18101

mp(co)  
prk16/4

Order  
in

W.P.Nos.11292, 12328, 17087,  
24167 and 24202 of 2014



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