BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Judgment Reserved On : 02.11.2017

Judgment Pronounced On: 17.11.2017

CORAM

THE HON'BLE MR.JUSTICE M.VENUGOPAL
and
THE HON'BLE MR.JUSTICE ABDUL QUDDHOSE

W.A.(MD) Nos.1362; 1381 and 1387 of 2017
and
C.M.P.(MD)Nos.9623, 9876, 9877 and 9964 of 2017

W.A.(MD)No.1362 of 2017:

1.Deepa
2.P.Vijayakumar
3.K. Menaka
4.G.Kadher Hussain
5.S.Jegatheesan
6.A.Baskaran
7.T.K.Suresh Kumar
8.M.Sampathraja
9.N.Thirumal murugan
10.K.Harikumar
11.P.Saravanan
12.G.Balaji
13.A.Panneerselvam
14.D.Nalini
15.R.Suganya
16.K.Perumal
17.R.Gopinath
18.E.Dhatchayani Sangeetha
(The Appellants are currently working as DCTO in the Office of the Additional Chief Secretary/Commissioner of Commercial Taxes Department, Ezhilagam Chepauk, Chennai.

… Appellants/Respondents 3 to 10, 12, 13, 16, 17, 18, 20, 21, 22, 25

..Vs..

1. T. Dravidaselvi,
   Superintendent/Deputy Commercial Tax Officer,
   O/o. the Assistant Commissioner Commercial Tax Office,
   Theni,
   Theni District. … 1st Respondent/Petitioner

2. The State of Tamil Nadu
   Rep. by its Secretary to Government,
   Commercial Taxes Department,
   Chennai-600 009. ... 2nd Respondent/1st Respondent

3. The Additional Chief Secretary/Commissioner of
   Commercial Taxes,
   Commercial Taxes Department,
   Chepauk,
   Chennai – 5. …3rdRespondents/2nd Respondent

4.D.Prakash

5.M.Sivakumar

6.S.Sathish

7.G.Thilagavathy

8.R.Gopinath

9.L.Mathisoothanan

10.Karuppanan

The Respondent Nos. 4 to 10 are currently working as DCTO
in the office of the Additional Chief Secretary/
Commissioner of Commercial Taxes,
Commercial Taxes Department, Ezhilagam,
Chepauk, Chennai-5.

(R4 to R10 given up) ... Respondents No.4 to 10 /
Respondent No.11, 14, 15, 19, 23, 24, 26

Prayer: Writ Appeal filed under Clause 15 of the letters patent against the order dated 14.09.2017 made in W.P.(MD)No.14923 of 2017.

Prayer in WP(MD). 14923/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned panel list of Commercial Tax officers for the year 2015 passed by the 2nd respondent in his proceedings NO.P1/21111/2015-I dated 01.08.2017 and the consequential promotion and allotment order issued by the 2nd respondent in his proceedings in Proc. No. P1/21111/2015-II dated 01.08.2017 and quash the same as illegal in so far as respondents 3 to 26 (serial NO. 75 to 98) are concern and consequentialy to direct the second respondent to include the name of the petitioner as per the seniority list published by the second respondent in this procedings in Proc.No.P2/319/2011, dated 19.07.2012, within a time frame that may be fixed by this Court.

For Appellants : Mr.V.Prakash
Senior Counsel
For Mr.K.Krishnamoorthy

For R1 : Mr.M.Ajmalkhan
Senior Counsel
For Mr.G.V.Vairam Santhosh

For R2 & R3 : Mr.Raja Karthikeyan
Additional Government Pleader (Taxes)
R4 to R10 : Given up

W.A.(MD)No.1381 of 2017:

1.D.Prakash

2.M.Sivakumar

3.S.Sathish

4.G.Thilagavathy

5.R.Gopinath

6.L.Mathisoothanan

7.Karuppanan .. Appellants / Respondents 11, 14, 15, 19, 23, 24 & 26

vs.

1. T. Dravidaselvi,
Superintendent/Deputy Commercial Tax Officer,
O/o. the Assistant Commissioner Commercial Tax Office,
Theni,
Theni District. … 1st Respondent/Writ Petitioner

2. The State of Tamil Nadu
Rep. by its Secretary to Government,
Commercial Taxes Department, Chennai-600 009.

3. The Additional Chief Secretary/Commissioner of
Commercial Taxes,
Commercial Taxes Department,
Chepauk,
Chennai – 5.

4.S.Deepa
5.P.Vijayakumar

6.K. Menaka
7.G.Kadher Hussain

8.S.Jegatheesan
9.A. Baskaran
10.T.K.Suresh Kumar
11.M.Sampathraja

...Respondents 2 to 11/Respondents 1 to 10

12.N.Thirumalmurugan
13.K.Harikumar

...Respondents 11 & 12/Respondents 12 & 13

14.P.Saravanan
15.G.Balaji
16.A.Panneerselvam

...Respondents 14 to 16/Respondents 16 to 18

17.D.Nalini
18.R.Suganya
19.K.Perumal

...Respondents 17 to 19/Respondents 20 to 22

20.E.Dhatchayani Sangeetha

... Respondent No.20/Respondent No.25

(Respondent Nos. 4 to 10 are serving as DCTOs
in the office of 3rd Respondent)

Prayer: Writ Appeal filed under Clause 15 of the letters patent against the order dated 14.09.2017 made in W.P.(MD)No.14923 of 2017.

Prayer in WP(MD). 14923/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned panel list of Commercial Tax officers for the year 2015 passed by the 2nd respondent in his proceedings NO.P1/21111/2015-I dated 01.08.2017 and the consequential promotion and allotment order issued by the 2nd respondent in his proceedings in Proc. No. P1/21111/2015-II dated 01.08.2017 and quash the same as illegal in so far as respondents 3 to 26 (serial NO. 75 to 98) are concern and consequentialy to direct the second respondent to include the name of the petitioner as per the seniority list published by the second respondent in this procedings in Proc.No.P2/319/2011, dated 19.07.2012, within a time frame that may be fixed by this Court.

For Appellants : Mr.A.Mithunchakravarthi

For R1 : Mr.M.Ajmalkhan
Senior Counsel
For Mr.G.V.Vairam Santhosh

For R2 & R3 : Mr.Raja Karthikeyan
Additional Government Pleader (Taxes)

For R4 to R20 : Mr.V.Prakash
Senior Counsel
For Mr.Krishnamoorthy

W.A.(MD)No.1387 of 2017:

T.Dravidaselvi,
Superintendent/Deputy Commercial Tax Officer,
O/o. the Assistant Commissioner Commercial Tax Office,
Theni,
Theni District. ... Appellant / Writ Petitioner

vs.

1. The State of Tamil Nadu
   Rep. by its Secretary to Government,
   Commercial Taxes Department,
   Chennai-600 009.

2. The Additional Chief Secretary/Commissioner of
   Commercial Taxes,
   Commercial Taxes Department,
   Chepauk, Chennai – 5.

3.S.Deepa
4.P.Vijayakumar
5.K. Menaka
6.G.Kadher Hussain
7.S.Jegatheesan
8.A. Baskaran
9.T.K.Suresh Kumar
10.M.Sampathraja
11.N.Thirumalmurugan
12.K.Harikumar
13.P.Saravanan
14.M.Sivakumar
15.S.Sathish
16.P.Saravanan
17.G.Balaji
18.A.Panneerselvam
19.G.Thilagavathy
20.D.Nalini
21.R.Suganya
22.K.Perumal
23.R.Gopinath
24.L,Mathisoothanan
25.E.DhatchayaniSangeetha
26.G.Karuppannan ... Respondents/Respondents
(Presently Deputy Commercial Tax Officer)
The Respondent 3 to 26 are currently working as
DCTO's in the office of the 2nd Respondent.

Prayer: Writ Appeal filed under Clause 15 of the letters patent against the order dated 14.09.2017 made in W.P.(MD)No.14923 of 2017.

Prayer in WP(MD). 14923/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned panel list of Commercial Tax officers for the year 2015 passed by the 2nd respondent in his proceedings NO.P1/21111/2015-I dated 01.08.2017 and the consequential promotion and allotment order issued by the 2nd respondent in his proceedings in Proc. No. P1/21111/2015-II dated 01.08.2017 and quash the same as illegal in so far as respondents 3 to 26 (serial NO. 75 to 98) are concern and consequentialy to direct the second respondent to include the name of the petitioner as per the seniority list published by the second respondent in this procedings in Proc.No.P2/319/2011, dated 19.07.2012, within a time frame that may be fixed by this Court.

For Appellant : Mr.M.Ajmalkhan
Senior Counsel
For Mr.G.V.Vairam Santhosh

For R1 & R2 : Mr.Raja Karthikeyan
Additional Government Pleader (Taxes)

For R3 to R26 : Mr.V.Prakash
Senior Counsel
For Mr.Krishnamoorthy

C O M M O N J U D G M E N T

[Judgment of the Court was delivered by **M.VENUGOPAL, J.**]

W.A.(MD)No.1362 of 2017:

The Appellants/Respondent Nos.3 to 10, 12, 13, 16, 17, 18, 20, 21, 22, 25 have preferred the instant intra-Court writ Appeal as against the order, dated 14.09.2017 in W.P.(MD)No.14923 of 2017 passed by the Learned Single Judge insofar as continuing the partial stay only in respect of the Appellants whose names were included in the Impugned panel for the post of Commercial Tax Officer.

(2)W.A.(MD)No.1381 of 2017:

The Appellants/Respondent Nos.11, 14, 15, 19, 23, 24 and 26 have filed the present intra-Court writ Appeal as against the order dated 14.09.2017 in W.P.(MD)No.14923 of 2017 passed by the Learned Single Judge.

(3)W.A.(MD)No.1387 of 2017:

The appellant/Writ Petitioner has projected the present Writ Appeal as against the order dated 14.09.2017 in W.P.(MD)No.14923 of 2017 passed by the Learned Single Judge.

(4)The Appellants Contentions in W.A.(MD)No.1362 of 2017:

(i).The Learned Senior Counsel for the Appellants submits that the Learned Single Judge while reiterating the stand of the

Government that the First Respondent/Writ Petitioner is not in permanent list of Deputy Commercial Tax Officers cannot stake claim ahead of the direct recruits, who were selected against substantive/regular vacancies, should not have stayed the promotions of the Appellants viz., Direct recruit Deputy Commercial Tax Officers who are in S.Nos.75 to 98 in the impugned panel.

(ii).The Learned Senior Counsel for the Appellants contends that the Learned judge while allowing the operation of impugned Panel from S.No.1 of 74, who were recruited to the post of Deputy Commercial Tax Officers in excess of their quota on a temporary basis, had stayed the operation of impugned panel from S.No.75 to 98, who are direct recruits to the post of Deputy Commercial Tax Officers, who were recruited against the substantive/regular vacancies is without any reasoning. It is represented on behalf of the Appellants that the Learned Judge failed to see that the First Respondent/Writ Petitioner in Writ Petition claimed in the writ affidavit that she is senior to all the persons in the impugned panel and also sought for stay against the entire panel in the Writ Petition. Moreover, the said representation is a false one, as seen from the impugned order requiring publishing of seniority list.

(iii).Advancing his arguments, the Learned Senior Counsel for the Appellants proceeds to point out that the Learned Judge failed to consider the fact that the Appellants were empaneled to the post of Commercial Tax Officer in pursuant to the Contempt Petition filed by them in C.P.Nos.2092 to 2096 of 2016 before the Principal Bench of this Court for the non-implementation of this Court's direction in W.P.Nos.8845 to 8849 and 6042 of 2015, which fact was substantiated by the Government, as per paragraph No.6 of the counter affidavit filed by the Government in the Writ Petition.

(iv).The Learned Senior Counsel for the Appellants projects an argument that the Learned Judge has not considered the well established principles in granting Ad-Interim order in the case of promotion viz., when there is a challenge to the promotions, the same are made subject to the result of Writ Petition without staying of promotions, especially,

when it was made under emergent situations for the reasons that the posts have to be occupied for discharge of the public functions attached to the said posts.

(v).The Learned Senior Counsel for the Appellants contends that the Learned Single Judge had failed to appreciate that there are as many as eight panels for temporary appointment in the year 2008 by the proceedings issued by the Third Respondent and as such, the real reason for 30 days time is to include the evidence in the next panel when the next emergent situation arise.

(vi).Expatiating his submissions, the Learned Senior Counsel for the Appellants takes a plea that the power to promote temporarily is vested in the Government under Section 47 of the Tamil Nadu Government Servants conditions of Service Act, 2016, which envisages that to meet the 'Exigencies', the Government can make 'Temporary Promotions' of duly qualified personnel without reference to Rules and in Public Interest.

(vii).The Learned Senior Counsel for the Appellants submits that the issue of seniority is yet to be finalised and that no one can talk about the seniority till the Government publishes the seniority and in reality, the First Respondent/Writ Petitioner is endeavoring to portray is the 'Temporary Promotion' to be a 'Regular Promotion' without following the seniority, which is an incorrect one.

(viii).The Appellants take a stand that the First Respondent/Writ Petitioner can claim relief for herself and cannot stall the promotion of 24 persons, which relief she is not entitled to be given in the present case.

(ix).The Learned Senior Counsel for the Appellants relies on the decision of the Hon'ble Supreme Court in MAHENDRA PRASAD SINGH ALIAS MAHENDRA SINGH v. STATE OF BIHAR AND OTHERS reported in (2011) 13 SCC 118 at special pages 121 and 122, wherein at paragraph No.17, it is observed as under:-

> "An order is to be read in entirety and upon such reading, the intention behind passing of the order is to be understood. The order is not to be read by taking notice of only one or two words of the order. If one reads the present order in entirety, there could be no two opinions that it is an order of removal from service by way of dismissal. Upon reading the said order of punishment, we are also of the view that the Superintendent of Police had duly considered the gravity of the misconduct and also mentioned in the body of the order that the Appellant deserved dismissal but in the final operative portion of the order some mistake was committed. Such a mistake would not enable the Appellant to get pension which otherwise he was not entitled to. Even the Hindi word used by the Superintendent of Police "Seva Samapta" if read in the context of the facts would mean that on account of the misconduct of the Appellant he was dismissed from service as there is no punishment of `discharge' from service in the Bihar Police Manual."

(5)The First Respondent/Writ Petitioner's Submissions:

(i).The Learned Senior Counsel for the First Respondent/Writ Petitioner submits that the First Respondent/Writ Petitioner was appointed as Junior Assistant by direct recruitment through Tamil Nadu Public Service Commission on 15.02.1993 at Commercial Tax Office, Pollachi and further that she was promoted as Assistant in Ministerial Service on 24.04.2006 at Deputy Commissioner Commercial

Tax Office, Kodaikanal. Later, she was promoted as 'Deputy Commercial Tax Officer' on 24.07.2012.

(ii).The Learned Senior Counsel for the First Respondent contends that the post of 'Deputy Commercial Tax Officer' is governed by the Special Rules to the Tamil Nadu Commercial Taxes Subordinate Service. Moreover, as per G.O.Ms.No.71, Commercial Taxes and Registration (A1) Department, dated 30.07.2008, the post of 'Assistant Commercial Tax Officer' was now re-designated as 'Deputy Commercial Tax Officer' and the post of 'Deputy Commercial Tax Officer' was now re-designated as 'Commercial Tax Officer'.

(iii).It is the stand of the First Respondent/Writ Petitioner that the 'Feeder category' for promotion to the post of 'Commercial Tax Officer' is 'Deputy Commercial Tax Officer' in terms of Rule 6 (d) of the Tamil Nadu Commercial Taxes Subordinate Service and the qualification envisages for the promotion to the post of 'Commercial Tax Officer' that (a) Must be a approved probationer in the category of Assistant Commercial Tax Office now re-designated as Deputy Commercial Tax Office; (b) Must have served as 'Deputy Commercial Tax Officer' and must have experience in assessment work in assessment circle for a period of not less than 2 years; and (c) Must have passed the departmental examinations and tests.

(iv).The Learned Senior Counsel for the First Respondent points out that the Third Respondent/Additional Chief Secretary/Commissioner of Commerical Taxes, Chennai published the impugned panel list of Commercial Tax Officers for the year 2015 by his proceedings, dated 01.08.2017, in which the First Respondent/Writ Petitioner's name was not included, but her juniors viz., the Appellants were found in the said panel.

(v).The Learned Senior Counsel for the First Respondent takes a plea that the First Respondent/Writ Petitioner was appointed as 'Deputy Commercial Tax Officer' on 24.07.2012 by promotion (appointment by transfer), however, the Appellants/Respondents 3 to 26 were appointed as 'Deputy Commercial Tax Officer' on 06.12.2012 by direct recruitment. Therefore, it is the stand of the First Respondent that she is senior to the Appellants/Respondents 3 to 26.

(vi).The Learned Senior Counsel for the First Respondent submits that prior to the publication of the impugned panel, dated 01.08.2017 and the consequential order of promotion dated 01.08.2017 by the Third Respondent, no Inter-se Seniority of 'Direct Recruitees' and promotees (Appointment by transfer), who was drawn by the Third Respondent and therefore, the entire exercise is 'Ex-facie' an illegal one.

(vii).The Learned Senior Counsel for the First Respondent strenuoulsy contends that prior to the publication of the panel, the Third Respondent should have published the 'Tentative Seniority List' and called for objections from the respective candidates and thereafter should have received objections and finalize the 'Inter-se Seniority' and later on only, the panel should be published. Since this was not resorted to by the Third Respondent, the impugned panel dated 01.08.2017 is not in conformity with Law.

(viii).The Learned Senior Counsel for the First Respondent brings it to the notice of this Court that when the impugned panel dated 01.08.2017 was published by the Third Respondent, 30 days time was granted for filing objection if any against non inclusion of names of any person in the panel for promotion to the post of 'Commercial Tax Officers' for the year 2015. However, prior to the expiry of 30 days time given for submitting objections to the panel in issue, on the very same day, the promotion order was issued by the Third Respondent on 01.08.2017 and consequently, the First Respondent was not in a position to file her objections. In short, the 30 days time given to file objections was rendered meaningless one.

(ix).According to the Learned Senior Counsel for the First Respondent although the 'Order of Promotion' is said to be a transitory one, but it is intended to be made permanent considering the fact that the official Respondents drew a panel of 'Deputy Commercial Tax Officers' fit for promotion to the post of 'Commercial Tax Officers' on 01.08.2017. Further, it is projected on the side of the First Respondent that in case of temporary promotion, no such 'Drawal Of Panel' is necessary and it is enough to issue an order of temporary promotion in the light of Rule 39(d) of the Tamil Nadu State and Subordinate Service Rules (corresponding to Section 47(2) of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016). Apart from that, it is pointed out on behalf of the First Respondent that is the prevailing practice in the State to issue every order of appointment as 'Temporary One', despite, such appointment is made in the permanent cadre posts.

(x).The Learned Senior Counsel for the First Respondent contends that the appointment of the First Respondent/Writ Petitioner though made temporarily is meant for promotees having regard to the fact that the said appointment was made against the substantive vacancies in the ratio of 66.66% earmarked for promotees (appointment by transfer) under Rule 2 of the Tamil Nadu Commercial Taxes Subordinate Service.

(xi).The Learned Senior Counsel for the First Respondent comes out with a plea that the candidates in Serial Nos.1 to 74 in the impugned panel are seniors to the First Respondent and the candidates in Serial Nos.75 to 98 alone are juniors to the First Respondent and hence, it is not necessary to implead the seniors of the First Respondent/Writ Petitioner whose names stand in Serial Nos.1 to 74.

(xii).The Learned Senior Counsel for the First Respondent submits that in fact, G.O.Ms.No.278 dated 15.06.2017 does not relate to seniority or promotion and it is only an order in regard to relaxation given to the Appellants by granting exemption from two years 'Assessment Work'. Therefore, it is the stand of the First Respondent that there is no need to challenge the aforesaid G.O.Ms.No.278, dated 15.06.2017.

(xiii).The Learned Senior Counsel for the First Respondent adds in his submissions that the Appellants are not seniors in the cadre of 'Direct Recruitees' and only by means of order passed by this Court in W.P.Nos.8845 to 8849 of 2015, dated 27.06.2016, they were included in the said panel irrespective of their seniority.

(xiv).The Learned Senior Counsel for the First Respondent contends that the impugned order or the counter affidavit, does not reflects the aspect that the promotion is made only to meet out the G.S.T. exigencies and that the promotion was made only on a temporary basis.

(6).The Pleas of Second and Third Respondents :

(I).The Learned Additional Government Pleader (Taxes) for the Second and Third Respondents submits that the individuals, who are in seniority list Nos.75 to 98 are not true seniors among the direct recruit Deputy Commercial Tax Officers.

(ii).The Learned Additional Government Pleader (Taxes) for the Second and Third Respondents points out that some of the direct recruit Deputy Commercial Tax Officers filed Writ Petition Nos.8845 to 8849 and 6042 of 2015 and Contempt Petition Nos.2092 to 2096 of 2016 and that the petitioners alone were included in the 'Temporary Panel' and promotion list for the post of Commercial Tax Officer, in view of the Contempt Petition. However, they were not seniors among the direct recruit Deputy Commercial Tax Officers, the same was brought to the notice of the Writ Court and hence, an order of interim stay was granted.

(iii).The Learned Additional Government Pleader (Taxes) for the Second and Third Respondents contends that the seniority list dated 01.08.2017 is the Temporary Seniority Panel and in the said panel, the Commissioner of Commercial Taxes had stated that the list is purely temporary and that the panel does not confer any right with reference to the seniority of the individual.

(iv).The Learned Additional Government Pleader (Taxes) for the Second and Third Respondents brings it to the notice of this Court that in the drawal of temporary list of Commercial Tax Officers for the year 2015, dated 01.08.2017, issued by the Third Respondent/Second Respondent objections were called for against the temporary panel from the aggrieved persons. Furthermore, it is represented on behalf of the Respondent Nos.2 and 3 that the 'Temporary Panel' was preferred in view of the interest of revenue and on administrative ground. Therefore, the relaxation to Rule 6(d) of Tamil Nadu Commercial Taxes Subordinate Rules, was obtained as per G.O.(D)No.278, Commercial Taxes and Registration Department, dated 15.06.2017 in favour of 98 Deputy Commercial Tax Officers to include the name in the temporary panel, inasmuch as, as per Rule 6 (d), 98 Deputy Commercial Tax Officers in the temporary panel were not qualified for promotion. In effect, the stand of the Second and Third Respondents is that to meet out the situation on administrative ground, the temporary panel was drawn and promotion order was issued.

(7)The Appellants Submissions in W.A.(MD)No.1381 of 2017:

(i).The Learned Counsel for the Appellants/Respondent Nos.11, 14, 15, 19, 23, 24 and 26 contends that the promotion of the Appellants are in accordance with Law and that the Appellants are promoted within the ratio meant for the direct recruitment. The Learned Counsel for the Appellants submits that the First Respondent/Writ Petitioner has no locus-standi to question the Appellants , considering the fact that her promotion itself is not a sanctioned one. Moreover, it is represented that the First Respondent/Writ Petitioner is not in the ' Cadre Strength' and her service is purely temporary in nature. Therefore, the plea of the Appellants is that the First Respondent is not entitled for promotion on par with the direct recruits and in fact, she is eligible only to compete with the promotees quota.

(ii).The Learned Counsel for the Appellants submits that the main plea of the First Respondent/Writ Petitioner before the Writ Court is that there was no opportunity to submit her objection, before issuing the impugned promotion order and if that be the case, to meet the ends of justice, it is just and necessary to quash the order in entirety or to stay the order till the publication of the 'Inter-se Seniority List'. However the Learned Single Judge had stayed the order partially, which is an unreasonable one.

(iii).The Learned Counsel for the Appellants contends that the Learned Single Judge had failed to consider that the official Respondents had given some preference to the 'Promotees' and even in the impugned proceedings/order also, the promotees occupied over and above the ratio meant for promotes since out of 98 posts, 74 are promotees and it comes around 75%, which is over and above the ratio.

(iv).The Learned Counsel for the Appellants vehemently projects an argument that as on date, there is no 'Inter-se Seniority List' and that the Learned Single Judge in the Writ Petition had directed the official Respondents to prepare and place the said list before the Court for its approval, but that was not done by the official Respondents. Therefore, it is the contention of the Learned Counsel for the Appellants that either the entire list is to be stayed or the impugned order is to be quashed in entirety. Indeed, the Learned Single Judge had stayed the promotion of the Appellants/direct recruits in the impugned order dated 14.09.2017 in W.P.(MD)No.14923 of 2017 and the same is liable to quash in the interest of justice.

(v).The Learned Counsel for the Appellants points out that it is the bounden duty of the First Respondent/Writ Petitioner to implead all the persons and instead, she impleaded the direct recruits alone. Also that the impugned order dated 14.09.2017 in W.P.(MD)No.14923 of 2017, passed by the Learned Single Judge is liable to be interfered with by this Court on account of 'non-joinder of necessary parties'.

(vi).The Learned Counsel for the Appellants submits that once the transferees/promotees are allowed to join in the promotional post, the Appellants are also equally entitled to get the similar relief, but in view of the impugned order passed by the Learned Single Judge in the Writ Petition, the promotional opportunity to the Appellants is deprived of.

(vii).Lastly, it is contention of the Appellants that definitely the promotees will claim seniority over and above them in future while considering the promotion to the post of Assistant Commissioner. On that score, the impugned order of the Learned Single Judge is liable to be interfered with by this Court.

(8)The Appellant in W.A.(MD)No.1387 of 2017/Writ Petitioner's Pleas:

(i).The Learned Senior Counsel for the Appellant/Writ Petitioner submits that paragraph No.8 of the impugned order dated 14.09.2017 in W.P.(MD)No.14923 of 2017 is contrary to Law and requires interference in the hands of this Court in the present writ Appeal. The Learned Senior Counsel for the Appellant comes out with a plea that the Learned judge should not have disposed of the Writ Petition filed by the appellant/Writ Petitioner by restricting the stay till the preparation of provisional seniority list alone is concerned, having regard to the facts and circumstances of the present case.

(ii).The Learned Senior Counsel for the Appellant/Writ Petitioner proceeds to project an argument that the Learned Single Judge should have seen that while disposing the Writ Petition had restricted the order passed by this Court on 22.08.2017 will operate till the preparation of the provisional seniority list. In this connection, the Learned Senior Counsel for the Appellant submits that in reality, the order passed by the Writ Court on 22.08.2017 should operate till the preparation of final seniority list instead of preparation of provisional seniority list.

(iii).The Learned Senior Counsel for the Appellant points out that the Learned Single Judge ought to have seen that the order restricting the stay till the preparation of provisional seniority list (instead of preparation of final seniority list) will cause prejudice to the appellant.

(9).The Writ Facts:

(i).According to the Writ Petitioner (First Respondent in W.A. (MD)Nos.1381 & 1387 of 2017), she was appointed as Junior Assistant by direct recruitment through Tamil Nadu Public Service Commission on 15.02.1993 at Commercial Tax Office, Pollachi and she was promoted as Assistant in Ministerial Service on 24.04.2006 at Deputy Commissioner Commercial Tax Office, Kodaikanal. Later, she was promoted as 'Deputy Commercial Tax Officer' on 24.07.2012. At present she is working as Superintendent/Deputy Commercial Tax Officer at Assistant Commissioner/Commercial Tax Office, Theni District.

(ii).The plea of the petitioner is that the post of 'Assistant Commercial Tax Officer' was now re-designated as 'Deputy Commercial Tax Officer' and the post of 'Deputy Commercial Tax Officer' was now re-designated as 'Commercial Tax Officer', as per G.O.Ms.No.71, Commercial Taxes and Registration (A1) Department, dated 30.07.2008. As a matter of fact, the Second Respondent (First Respondent in W.A.(MD)No.1362 of 2017) by means of proceedings dated 19.07.2012 published the seniority list of Deputy Commercial Tax Officers for the year 2011 and in the said list, her name was placed in seniority No.246. The next promotional avenue is Commercial Tax Officer, which stipulates the completion of two years of Assessment Service.

(iii).To the Petitioner's shock and surprice, the Second Respondent /Additional Chief Secretary/Commissioner of Commercial Taxes, Chennai pubished the panel list of Commercial Tax Officer for the year 2015 by means of proceedings dated 01.08.2017, in which, her name was not included, but her juniors viz., Respondent Nos.3 to 26 (in the Writ Petition) were included in the impugned panel from serial Nos.75 to 98. In fact, the Respondent Nos.3 to 26 (in the Writ Petition) were appointed as Deputy Commercial Tax Officers during December, 2012. However, she was appointed on 24.07.2012.

(iv).The Petitioner's plea is that 98 individuals were placed senior to her pursuant to the relaxation of Special Rule 6(d) of the Tamil Nadu Commercial Taxes Subordinate Service Rules. But for the relaxation, she is senior to 19 persons and that the order of relaxation was issued in G.O.(D)No.78, Commercial Taxes and Registration (A1) Department, dated 15.06.2017. Hence, she has become senior as on 01.03.2015 prior to the issuance of afore stated Government Order. As such, she is to be placed as senior in the panel to the 98 individuals and promoted accordingly. The seniority is bypassed and serial Nos.75 to 98 persons are accommodated because they approached this Court and the seniority among the direct recruits themselves is not followed. As such, she addressed a representation to the Respondents to revise the impugned panel and to include her name taking into account of her seniority. But the Respondents had not taken any steps to revise the panel list so far. As such, the impugned order dated 01.08.2017 issued by the Second Respondent is to be set aside. Hence, she has filed the present Writ Petition.

(10).An Appraisal:

(i).At the outset, it is to be pertinently pointed out that the Tamil Nadu Commercial Taxes Subordinate Service consists of entry level post of Deputy Commercial Tax Officer and the next higher post of Commercial Tax Officer to which the Appellants (In W.A.(MD) No.1362 of 2017) were promoted temporarily. Furthermore, the recruitment of entry into service is 33.33% by direct recruitment through Tamil Nadu Public Service Commission combined subordinate services examination Group-I and the promotions to the post of Commercial Tax Officers from the cadre of Deputy Commercial Tax Officers is by seniority. The Seniority list of Deputy Commercial Tax Officers recruited till 2010 has been published.

(ii).It is to be noted that the Tamil Nadu Commercial Taxes and Subordinate Service Rule 6(d)(c)(ii) enjoins as follows:-

> "(ii) Before preparing the lists of any category relating to any year, the Commissioner of Commercial Taxes shall estimate the number of persons who are likely to be recruited by promotion and/or by transfer to that category between the 1st March of that year and the 28th /29th February of the next year. Ten percent of vacancies in each category shall be reserved for the appointment of the persons recruited from the Offices of the Commissioner of Commercial Taxes and Sales Tax Appellate Tribunal and the Departments of the Secretariat coming under one unit"

(iii).The First Respondent/Writ Petitioner claims that as on 01.03.2015 she is fully eligible by acquiring all the necessary qualification for promotion to the post of Commercial Tax Officer and in fact, 98 persons were placed seniors to her pursuant to relaxation of Special Rule 6(d) of the Tamil Nadu Commercial Taxes and Subordinate Service Rules. But for the relaxation, according to the First Respondent/Writ Petitioner she is the senior to 98 individuals and since she is senior as on 01.03.2015, she must be placed as senior to 98 individuals and the panel be prepared and she be promoted.

(iv).The Appellants in W.A.(MD)No.1362 of 2017, come out with a stand that the First Respondent/Writ Petitioner is endeavouring to portray the temporary promotion (vide proceedings of the Additional Chief Secretary/Commissioner of Commercial Taxes, Chennai, dated 01.08.2017) to be a regular promotion without following seniority, which is incorrect.

(v).At this stage, this Court, aptly points out the ingredients of Section 47 of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016, under the caption 'Temporary Promotion', which runs as follows:-

> "47. (1) Where it is necessary in the public interest owing to an emergency which has arisen to fill immediately a vacancy in a post borne on the cadre of a higher category in a service or class by promotion from lower category and there would be undue delay in making such promotion in accordance with the provisions of the Act, the appointing authority may temporarily promote a person,

who possesses the qualifications prescribed for the post, otherwise than in accordance with the provisions of this Act.

(2) Where it is necessary to fill a short vacancy in a post borne on the cadre of a higher category in service or class by promotion from lower category and the appointment of the person who is entitled to such promotion under the provisions of the Act would involve excessive expenditure on travelling allowance or exceptional administrative inconvenience, the appointing authority may promote any other person who possesses the qualification, if any, prescribed for the higher category.

(3) A person temporarily promoted under sub-section (1) shall be replaced as soon as possible by the member of the service, who is entitled to promotion under the Act.

(4) Where it is necessary to promote an officer against whom an enquiry into allegations of corruption or misconduct is pending, but no charge sheet has been filed in the criminal case or where no charge under sub-rule (b) of rule 17 of the Tamil Nadu Civil Services (Discipline and Appeal) Rules have been framed or no proceedings before the Tribunal for Disciplinary Proceedings is pending, the appointing authority may promote him temporarily pending enquiry into the allegations against him.

(5) A person promoted under sub-section (1), (2) or (4) shall not be regarded as a probationer in the higher category or be entitled by reason only of such promotion to any preferential claim to future promotion to such higher category. The services of a person promoted under sub-section (1), (2) or (4) shall be liable to be terminated by the appointing authority at any time without notice and without any reason being assigned.

(6) (i) A person promoted under sub-section (1), (2) or (4) shall commence his probation, if any, in such category either from the date of his temporary promotion or from such subsequent date as the appointing authority may determine:

Provided that on the date so determined, the person possesses all the qualifications prescribed for promotion to the service, class or category, as the case may be.

(ii) He shall also be eligible to draw increments in the time scale of pay or pay band applicable to him from the date of commencement of his probation. Where commencement of probation is ordered from a date earlier than the date of the order and if this has not been enabled by relaxation of any provisions of the Act, he shall draw increments, including arrears, in the time scale of pay or pay band applicable to him from such earlier date. The appointing authority shall include a provision to this effect while issuing order in all such cases.

(7) A person promoted under the Act to hold a post borne on the cadre of a service, class or category, who has rendered continuous temporary service shall be eligible to draw annual increments in the scale of pay or pay band for the post, subject to the condition that this Act do not prescribe any special qualification to be acquired or test to be passed as a condition precedent to the drawal of such increment or increment is not denied as a measure of penalty."

(vi).It is relevantly pointed out that Section 2 of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016, which reads as under:-

"2.This Act shall apply to the holders of all posts, whether temporary or permanent, in all State and Subordinate Services except to the extent otherwise expressly provided—

(a) by or under any Law for the time being in force; or

(b) in respect of any member of such service by a contract or agreement subsisting between such member and the Government."

(vii).In this connection, it is significant to point out Section 40(1) and 40(2) of the Act, which are as follows:-

"40(1) The seniority of a person in a service, class, category or grade shall, unless he has been reduced to a lower rank as a punishment, be determined in the order of his placement in the list prepared by the recruitment agency or appointing authority, as the case may be, in accordance with the rule of reservation and the order of rotation specified in Schedule-V, where it applies. The date of commencement of his probation shall be the date on which he joins duty irrespective of his seniority.

(2) The seniority of a person in a service, class, category or grade shall, where the normal method of recruitment to that service, class, category or grade is by more than one method of recruitment, unless the individual has been reduced to a lower rank as a punishment, be determined with reference to the date on which he is appointed to the services, class, category or grade:

Provided that where the junior appointed by a particular method of recruitment happens to be appointed to a service, class, category or grade, earlier than the senior appointed by the same method of recruitment, the senior shall be deemed Appointment of full members. Appointment as full member, discharge and reappointment of member who are not probationers or approved probationers. Penalty for failure to pass prescribed test. Fixation of seniority. 32 to have been appointed to the service, class, category or grade on the same day on which the junior was so appointed:

Provided further that the benefit of the above proviso shall be available to the senior only for the purpose of fixing inter-se-seniority: Provided also that where persons appointed by more than one method of recruitment are appointed or deemed to have been appointed to the service, class, category or grade on the same day, their inter-se-seniority shall be decided with reference to their age."

(viii).As a matter of fact, this Court at the time of passing the impugned order in W.P.(MD)No.14923 of 2017 dated 14.09.2017, at paragraph No.6, had observed the following:-

"6. In view thereof, this Court without going in to the merits of the case, on 22.08.2017, has passed the following order:

"W.M.P.(MD)No.12446 of 2017 has been filed by the Respondents 3 to 26 herein to vacate the order of stay granted by this Court, dated 09.08.2017 in W.M.P.(MD)No.11762 of 2017 in W.P.(MD)No.14923 of 2017.

2.Time is sought to file rejoinder by the petitioner. The Learned Additional Government Pleader appearing for the official Respondents also sought time to file counter.

3. A request was made by the Learned Senior Counsel appearing for the petitioner and the Learned Senior Counsel appearing for the Respondents 3 to 26, to direct the official Respondents to serve a copy of the counter well in advance. Therefore, the Learned Additional Government Pleader appearing for the official Respondents 1 and 2 is hereby directed to furnish a copy of the counter affidavit two days in advance before filing of the same.

4. A week's time is granted to the petitioner to file her objection as called for in the impugned proceedings. It is open to the Respondents 1 and 2 to pass appropriate orders within one week thereafter. It is needless to mention that this Court has already granted partial stay of the impugned proceedings in respect of the Respondents 3 to 26 alone. However, the Respondents 1 and 2 are directed to prepare a final seniority list and place it before this Court for approval.

List this matter on 06.09.2017 at 2.15 p.m."

(ix).Apart from the above, at paragraph No.8 of the impugned order dated 14.09.2017 in W.P.(MD)No.14923 of 2017, the Learned Single Judge had proceeded to observe the following:-

"8.This Court having considered the rival submissions made by the Learned Counsel appearing for both parties, taking note of my earlier direction, which was given on 22.08.2017, that the Respondents 1 and 2 were directed to prepare a final seniority list and place it before this Court for approval, as there is no consensus among all the parties appearing before me that there must be inter se seniority list between the Deputy Commercial Tax Officers appointed by way of transfer and the Deputy Commercial Tax Officers appointed by way of direct recruitment since 2011 and the Official Respondents viz., Respondents 1 and 2 have not prepared the final seniority list, in the larger interest of all the parties, again, the Respondents 1 and 2 are given four weeks' time to prepare a provisional seniority list. Thereafter, the same shall be published forthwith, giving time aggrieved, within two weeks thereafter and the Respondents 1 and 2 are further directed to finalise the inter se seniority list, within four weeks of receipt of their objections, if any. It is needless to mention that if any one is still aggrieved, it is open to them to seek appropriate remedy in the mannder known to Law. The order passed by this Court dated 22.08.2017 will operate till the preparation of the provisional seniority list only."

and accordingly dispoed of the Writ Petition.

(x).There is no two opinion of an established fact that an employee is very much interested in his 'Inter-se Seniority'. The term 'Seniority' is related with an advancement in 'career'. Further, 'Promotion' is based on 'Seniority'. No one has any fundamental right to a particular 'Seniority'. The word 'Seniority' is related to the cadre. One has no claim over seniority in the cadre, unless he is a member of cadre. Any threat to change/replace one's seniority to his detriment, will be resisted by him.

(xi).It is to be borne in mind that when there is a contest or controversies between the parties concerning particular issue(s), then, ordinarily a Court of Law will not grant final relief at an interlocutory stage, as opined by this Court. Even an interim order, which has the effect of granting final relief ought not to be granted by a Court of Law. Furthermore, an interim relief identical to the main relief claimed in a petition/plaint, which has the effect of closing the main proceedings, cannot be granted. To put it succintly, a relief, which can be granted only at the final hearing of the matter, should not be granted by a Court of Law as an interim order.

(xii).At this juncture, this Court worth recollects and recall the decision of the Hon'ble Supreme Court between P.SHANMUGANATHAN v. SECRETARY TO TAMIL NADU GOVERNMENT reported in (2016) 7 MLJ 11, at special pages 24 to 26, wherein at paragraph Nos.17 to 20, it is observed and laid down as follows:-

"17.The order passed by the Second Respondent , in Proc.No.P1/58439/2007 dated 04.05.2009 communicating inter-se seniority list of Assistant Commercial Tax officers (hereinafter referred to as A.C.T.Os.) for the year 1968 to 2006, was challenged before this Court in W.P.No.11618 of 2009. The said order was passed pursuant to the judgment of the Hon'ble Supreme Court in Civil Appeal No.1454 of 1987 dated 10.02.1999. Originally, the Government of Tamil Nadu published the provisional seniority list of Assistant Commercial Tax Officer in the year 1985 and the same was challenged before this Court in W.P.No.12786 of 1985 on the ground that the regular rule for fixing the seniority was not followed by the State Government. This Court considered the matter in detail and by order dated 19.06.1986, set aside the provisional seniority list. While assailing the provisional seniority list, this Court also laid down certain guidelines for drawing the seniority list. In the operative part of the judgment, this Court directed that on the basis of guidelines in the judgment, the Assistant Commercial Tax Officers at Sl.Nos.129 to 519, in the impugned seniority list can be placed above the Writ Petitioners over the direct recruits in the inter-se seniority list, only if they had held the post substantively within the permanent cadre strength allotted to the particular category even before the Writ Petitioners commenced their probation.

18. On a perusal of the records, this Court finds that the Government only challenged the direction given by this Court with regard to Assistant Commercial Tax officers placed at Sl.Nos.129 to 519 in the impugned seniority list, before the Hon'ble Supreme Court in Civil Appeal No.1454 of 1987. The objection raised was to the expression permanent cadre strength. The stand of the State Government was that employees holding the temporary posts prior to appointment of the Writ Petitioners before this Court, should also be considered for the purpose of fixing the seniority and they should not be omitted out of consideration. One another stand of the Government was that temporary appointment to a permanent post was different from regular appointment to a temporary post. The contentions were rejected for the reason that there was nothing to show that the cadre strength fixed by the Government in any particular year comprised not only permanent posts, but also temporary posts. The Hon'ble Supreme Court has taken note of the fact that the State Government had not placed any record before this Court to dispute the contentions of the Writ Petitioners in the Writ Petitions that the transferee appointees were appointed only under Rule 10(a)(i) or 39(a) of the General Rules in Part II of the Tamil Nadu State and Subordinate Service Rules. These rules relate to temporary stopgap arrangements which could be made in the cases of emergency, to meet immediate necessity in the interest of administration. The appointments were not made in accordance with Rules, but de hors the Rules. Therefore, the Hon'ble Supreme Court followed the well settled Law that the Rules do not confer any right to the appointee, to claim seniority over others who were regularly appointed, though later in time in accordance with relevant Rules. This Court has held that the transferees, who could not be accommodated in the quota reserved for them, cannot claim seniority over direct recruits as and when such direct recruits replace them and placed reliance on the judgment of the Hon'ble Supreme court in A.I.R. 1984 SC 1291 (P.S.Mahal Vs Union of India).

19. It is seen from the records that the Hon'ble Supreme Court took note of the tabular statement placed before this Court showing 40% of the substantive vacancies to be filled up by way of direct recruitment and out of the remaining 60%, 50% of the substantive vacancies to be filled up by confirmation of persons recruited by transfer from among the Assistants and Gujarathi knowing Assistants employed in the Commercial Taxes Department and 10% of substantive vacancies by transfer from among the Assistants and Superintendents working in the Sales Tax Appellate Tribunal, Assistants and Superintendents working in the Commercial Taxes Branch of the Board of Revenue and Assistants who have dealt with or dealing with the subject 'Commercial Taxes' in the Commercial Taxes and Religious Endowments Department of the Secretariat. The Hon'ble Supreme Court therefore took note of the fact, that in the tabular statement, reference was expressly made to substantive vacancies which indicates that the reference was to apply to permanent posts which are substantive vacancies. It was also taken note that no material was placed to show that cadre comprised both the permanent and temporary posts. Therefore, the Hon'ble Supreme Court, by judgment dated 10.02.1999, confirmed the judgment passed by this Court in W.P.No.12786 of 1985 dated 19.06.1986, holding that as per the chart placed from the year 1972 to 1997, there were only 271 permanent posts as against 422 posts which were shown as temporary. In the year 1997, 1080 posts were shown as temporary out of the total 1351 posts, and that no other figures were given for the years 1973 and 1974. The Hon'ble Supreme Court also took note of the fact that no reference was made in the tabular statement, to any G.O. or Rule which fixed the cadre strength shown in the tabular statement. Therefore, it was concluded that if there was increase in the cadre strength from year to year, as contended, there should have been different Government Orders fixing such cadre strength. The Hon'ble Supreme Court accepted the contention that temporary appointments will not by themselves increase the cadre strength and did not rely upon the tabular statement produced by the State of Tamil Nadu. Consequently, the Hon'ble Supreme Court upheld the judgment passed by this Court as stated supra, and the Special Leave Petition filed by one individual person and some other Special Leave Petitions were also ordered to be dismissed. Thereafter, vide order dated 20.10.2008 in Contempt Petition (C) No.263 of 2007 in Civil Appeal 1454 of 1987, the Hon'ble Supreme Court directed the State to publish seniority list in terms of the directions given. The Hon'ble Supreme Court did not entertain the intervening application moved by the employees and permitted them to raise objection to the provisional seniority list and to have recourse of such remedy available to them in the event of rejection of their representation. Pursuant to the judgment of the Hon'ble Supreme Court dated 10.02.1999 in Civil Appeal No.1454 of 1987, confirming the

judgment of this Court in W.P.No.12786 of 1985 dated 19.06.1986, the impugned order under challenge in W.P.No.11618 of 2009, has been passed.

20. It is apparent that the promotion as well as upgradation are only for the permanent posts and hence G.O.Ms.No.1, Commercial Taxes and Registration (A2) Department, dated 04.01.2010, G.O.Ms.No.17, Commercial Taxes and Registration (A2) Department, dated 10.02.2014 and G.O.Ms.No.47, Commercial Taxes and Registration (A2) Department, dated 31.03.2015, have to be considered. Further, the seniority list placed before the Hon'ble Supreme Court, has been agreed to by all the parties concerned, and hence there cannot be any deviation with regard to the promotions subsequently claimed by them. With regard to the increase in cadre strength on 04.01.2010, since the list in this respect has been produced before the Hon'ble Supreme Court, the same cannot be tested at this juncture, before this Court. When the Hon'ble Supreme Court had considered the matter in detail and passed the order dated 10.02.1999 in Civil Appeal No.1454 of 1987, confirming the judgment of this Court in W.P.No.12786 of 1985 dated 19.06.1986, based on the list produced and thereafter, passed the order dated 20.10.2008 in Contempt Petition (C) No.263 of 2007 in Civil Appeal 1454 of 1987, directing the State to publish seniority list in terms of the directions given, this Court is of the considered view that the matter has reached finality and any endeavour to re-agitate the matter on a new ground, cannot be countenanced. The attempt of the Appellant is nothing but re-appreciating or re-arguing the case which had already been decided by the Hon'ble Supreme Court and hence such an act to re-agitate is only to be rejected. If the Appellant has any grievance with regard to the judgment passed by the Hon'ble Supreme Court, he has to approach the Hon'ble Supreme Court seeking necessary clarifications, as the seniority list placed before the Hon'ble Supreme Court, has been agreed to by all the parties concerned. Therefore, it is for the Appellant to approach the Hon'ble Supreme Court, for clarification of the judgment, if so advised."

(xii).It is not in dispute that as on date, there is no 'Inter-se' seniority list and in fact, the Learned Single Judge in the impugned order, dated 14.09.2017, in W.P.(MD)No.14923 of 2017, had directed the official Respondents to prepare a final list and place it for approval etc.

(xiii).In reality, the Respondent Nos.2 and 3 (Official Respondents) have not prepared the Inter-se seniority list. In such a situation, the Learned Single Judge ought not to have stayed the promotion of the Appellants/direct recruits in the impugned order in W.P.(MD)No.14923 of 2017 dated 14.09.2017, which, in the considered opinion of this Court, is incorrect in the Eye of Law.

(xiv).That apart, when the Appellant (In W.A.(MD)No.1387 of 2017)/Writ Petitioner comes out with a plea that there is no opportunity before issuing the impugned order of promotion, dated 01.08.2017 for her to submit her objections, then the Learned Single Judge should not have stayed the order partially in W.P.(MD)No.14923 of 2017 dated 14.09.2017 and the same is not tenable in Law, as opined by this Court.

(xv).Besides these, the Appellant (In W.A.(MD)No.1387 of 2017)/ Writ Petitioner, had not arrayed the 98 individuals, who are reportedly junior to her, as necessary parties in the main Writ Petition. In fact, she had only impleaded the direct recruits alone in the main Writ Petition. That apart, it is latently and patently evident from paragraph No.6 of the impugned order in W.P.(MD) No.14923 of 2017, dated 14.09.2017 of the Learned Single Judge that on 22.08.2017, without traversing upon the merits of the case, an interim order was passed and as on date, there is no 'Inter-se Seniority List'.

(xvi).In the upshot of forgoing detailed discussions and also this Court on an over all assessment of the facts and circumstances of the present case, in a cumulative manner, comes to an irresistable conclusion that the Learned Single Judge is not correct in staying the impugned proceedings of the Second Respondent in Proceedings No.P1/21111/2-15-I, dated 01.08.2017, in a partial manner and issuing necessary directions thereto. As such, this Court, without traversing upon the merits of the subject matter in issue, and also not exparessing any opinion, interferes with the impugned order of the Learned Single Judge passed in W.P.(MD) No.14923 of 2017, dated 14.09.2017 and sets aside the same in entirety to prevent an aberration of Justice and to promote substantial cause of justice. Further, this Court, remits back the subject matter in W.P.(MD)No.14923 of 2017 before the Learned Single Judge for fresh consideration and disposal on merits and in accordance with Law.

(xvii).It is open to the First Respondent (In W.A.(MD)Nos.1362 and 1381 of 2017)/Writ Petitioner, to implead the 98 persons, who are said to be juniors, as necessary Respondents in the main Writ Petition, if she so desires/advised. It is also open to the respective parties to raise all factual and legal pleas, for redressal of their grievances, before the Learned Single Judge at the time of passing fresh final orders in the main Writ Petition.

(xviii).With the aforesaid Observation(s) and Direction(s), these Writ Appeals stand disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

1. The Secretary to Government of Tamil Nadu,
   Commercial Taxes Department,
   Chennai-600 009.

2. The Additional Chief Secretary/Commissioner of
   Commercial Taxes,
   Commercial Taxes Department,
   Chepauk, Chennai – 5.

+1cc to M/S.G.V.VAIRAMSANTHOSH, Advocate SR.No.87919.
+2cc to M/S.A.MITHUN CHAKRAVARTHI, Advocate SR.No.88136.
+2cc to M/S.KRISHNAMOORTHY, Advocate SR.No.87778 & 87779.
+1cc to Special Government Pleader in SR.No.88233 & 88234.

Judgment made in
W.A.(MD) Nos.1362; 1381
and 1387 of 2017
and
C.M.P.(MD)Nos.9623, 9876,
9877 and 9964 of 2017
17.11.2017

rj2
SDS/SKN:RSK/SAR 1/22.11.2017/24P/9C