



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
Dated : 11.07.2017

CORAM:

THE HONOURABLE MR. JUSTICE K.K. SASIDHARAN

AND

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

W.A. [MD]. No. 200 to 204 of 2017

and

W.M.P. (MD) Nos. 2076 to 2084 of 2017

1. The Principal Secretary to Government,
Rural Development and Panchayat Raj,
Secretariat, Chennai - 600 009.

2. The Commissioner of Rural Development
and Panchayat Raj,
Saidapet, Chennai - 600 015.

2. The District Collector,
Madurai District, Madurai. ... Appellants in all appeals/
Respondents 1 to 3

Vs.

1. A. Rajathi ... 1st Respondent in WA 200/2017/Writ Petitioner
2. K. Sankareswari ... 1st Respondent in WA 201/2017/Writ Petitioner
3. V. Thangapandi ... 1st Respondent in WA 202/2017/Writ Petitioner
4. A. Rajalakshmi ... 1st Respondent in WA 203/2017/Writ Petitioner
5. N. Sundari ... 1st Respondent in WA 204/2017/Writ Petitioner

6. N. Soundar Rajan,

7. V. Kalaiarasan

8. K. Sundarasamy ... Respondents 2 to 4 in all appeals

9. R. Balakrishnan ... 5th Respondent in WA 200/2017/7th Respondent in
WP Nos. 7096/10

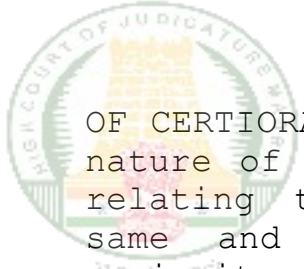
10. D. Philip ... 5th Respondent in WA 201/2017/7th Respondent in
WP Nos. 7097/10

11. K. Pandian ... 5th Respondent in both WA 202 and 203/2017
/7th Respondent in WP Nos. 7099 & 7100/10

PRAYER : Writ Appeals are filed under Clause 15 of the Letters Patent, to set aside the order dated 07.11.2016 passed in WP(MD) No. 7096, 7097, 7099, 7100 and 8184 of 2010.

Common Prayer in WP(MD) Nos. 7096/ 2010 and 7097/2010 :

<https://hcservices.ecourts.gov.in/hcservices/> Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Pleased to issue a WRIT



OF CERTIORARIFIED MANDAMUS or any other order or directions in the nature of a writ calling for the records of the third respondent relating to RC.NO.134/2010/RD-2 Dated.19.05.2010 and quash the same and consequently direct the respondents to refix the seniority of the petitioner in the list of Assistants of the year 1998 as per the orders issued by the second respondent in his R.C.No.88813/2008/C-1 dated 25.04.2009 within a specified time frame that may be fixed by this Hon'ble Court.

Prayer in WP(MD). 7099/ 2010 and 7100/2010 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Pleased to issue a WRIT OF CERTIORARIFIED MANDAMUS or any other order or directions in the nature of a writ calling for the records of the third respondent relating to RC.NO.134/2010/RD-2 Dated.19.05.2010 and quash the same and consequently direct the respondents to refix the seniority of the petitioner in the list of Assistants of the year 1999 in WP(MD)No.7099/2010 and year 1998 in WP(MD)No.7100/2010 within a specified time frame that may be fixed by this Hon'ble Court respectively.

Prayer in WP(MD). 8184/ 2010 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a WRIT OF CERTIORARIFIED MANDAMUS or any other order or directions in the nature of a writ calling for the records of the third respondent relating to R.C.No.134/2010/RD-2 dated 19.05.2010 and quash the same and consequently direct the respondents to refix the seniority of petitioner in the list of Assistants of the year 2001 as per the provisions contained in the Service Rules and as already agreed to by him within a specified time frame that may be fixed by this Hon'ble Court.

For Appellants : Mr.T.S.Md.Mohideen
Additional Government Pleader
(In all Writ appeals)

For 1st Respondent
in WA Nos.200,201,202/17 : Mr.S.Visvalingam
(For Caveator in WA Nos.200,201,202/17)

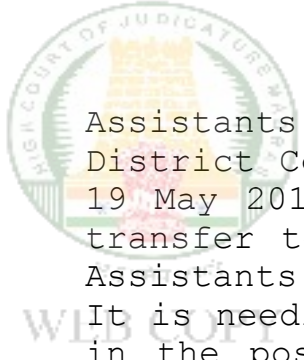
JUDGMENT

[Judgment of the Court was delivered by **G.R.SWAMINATHAN, J.**]

The Principal Secretary to Government, Rural Development and Panchayat Raj Department is on appeal, questioning the common order dated 07 November 2016 made in W.P.(MD) No.7096 of 2010 etc.

<https://hcservices.ecourts.gov.in/hcservices/>

2.The respective writ petitioners filed the said writ petitions questioning their fixation of seniority in the list of



Assistants of the year 1999 as shown in the proceedings of the District Collector, Madurai District in R.C.No.134/2010/RD-2 dated 19 May 2010. The respective writ petitioners had sought one way transfer to Madurai District. They had forgone their position as Assistants and joined in Madurai District as Junior Assistants. It is needless to state they had already completed their probation in the post of Junior Assistant and were promoted as Assistants originally. When such approved probationers come to one District by way of one way transfer, they must be placed immediately below the approved probationers in the transferred district. Similarly, those who had not completed their probation in the transferred district would be placed below such persons, who have come on one way transfer, but, who have already completed their probation.

3.For example Tmt.A.Rajathi, the petitioner in W.P.(MD) No.7096 of 2010 joined duty in Madurai District as approved probationer on 01 September 1995. She had completed her probation in her original district on 01 February 1991 itself. But, strangely in the impugned seniority list, the persons, who completed probation much later have been placed above the writ petitioner A.Rajathi.

4.When the writ petitions were taken up for hearing, it was fairly conceded that seniority of the writ petitioners had been erroneously fixed. When the official respondents themselves admitted that seniority fixed for the cadre of Junior Assistants in respect of the transferred candidates from other districts was not correct, they were bound to set right the errors. It was also noted that the impugned seniority list was finalized without even considering the objections received in respect of the tentative list. Therefore the learned Judge rightly allowed the writ petitions and quashed the orders in R.C.No.134/2010/RD-2 dated 19 May 2010 issued by the District Collector, Madurai District and gave a direction for issuance of revised seniority list in the cadre of Junior Assistants and consequential seniority in the cadre in which the writ petitioners are now serving. After conceding that there were in error, it was not open to the appellants to have filed these writ appeals. These appeals are liable to be dismissed both on merits as well as maintainability.

5.The writ appeals stand dismissed. No costs. Consequently, connected miscellaneous petitions are also dismissed.

Sd/-

Assistant Registrar(Records)

/True copy/



+5cc to Mr.S.Visvalingam, Advocate,SR.64730
+1cc to Special Government Pleader,SR.64984

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