

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 15.03.2018

CORAM

THE HONOURABLE Mr.JUSTICE T.RAJA

W.P.No.5728 of 2018
and W.M.P.No.7067 of 2018

R.Shanthi

... Petitioner

Vs

1.The Secretary,
Tamil Nadu Public Service Commission,
Chennai.

2.The Secretary to Govt. of Tamil Nadu,
Personnel and Administrative Reforms Department,
Fort St. George,
Chennai-9.

3.The Commissioner,
Milk Production and Dairy Development Department,
Chennai-51.

... Respondents

Writ Petition filed under Article 226 of The Constitution of India seeking for issuance of Writ of Certiorarified Mandamus to call for the records relating the proceedings bearing No.4702/OTD-B3/2013 dated 07.09.2017 passed by the first respondent and quash the same and consequently direct the first respondent to re-fix the seniority strictly based on the marks secured in the Selection Process conducted by the 1st respondent.

For Petitioner : Mr.T.R.Sathiyamohan

For Respondents : Ms.C.N.G.Niraimathi,
Standing Counsel for R1

: Mr.V.Kadhirvel,
Spl. Govt. Pleader for R2

O R D E R

This Writ Petition has been filed challenging the impugned proceedings dated 07.09.2017 refixing the ranking given to the petitioner at at the time of appointment following the Communal Reservation Roster system.

2.Heard the parties on both sides.

3.This issue has been covered by the order passed by me in W.P.Nos.14275 to 14283 of 2015 and the relevant portion thereof is given as under :

"18.2. Firstly, the roster is not vacancy based but the same is only post based, because it identifies the number of posts earmarked for various categories in the vertical reservation and the post left behind for open quota as well as special reservations.

18.3. Secondly, it should be calculated as to how many vacancies are to be filled up under various categories in the current selection, making it clear that if once the number of vacancies earmarked for each category in the current selection is identified by using the roster, thereafter the roster will have no further role to play in the matter of selection.

18.4. Thirdly, as highlighted above, the impugned order clearly shows that after preparing the list of selectees in the order of merit by the Tamil Nadu Public Service Commission, applying the rule of reservation, fitted them against the 200 point roster in the Schedule III for the first time and thereafter the roster will lose its significance. This is in tune with the ratio laid down by the Hon'ble Division Bench of this Court in N.Santhosh Kumar and others case (supra) holding in paragraph-81 that the proper way of interpreting and implementing rule 35(a) for the Service Commission is to (i) prepare a list of selectees in the order of merit and (ii) fit them against the 200 point roster in the Schedule III. Once such fitment is done and the process of appointment is over, with the selected candidates joining duty, the roster will lose its significance and will have nothing to do with the determination of seniority.

18.5. Fourthly, the Tamil Nadu Government has brought in the Tamil Nadu Government Servants (Conditions of Service) Act, 2016 with retrospective effect from 1.1.1955. As per sub-section (1) of Section 40, which is given as under,

"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.", the seniority of a person in a service shall be determined in the order of his/her placement in the list prepared by the appointment authority or recruitment agency, as the case may be, in accordance with the rule of reservation and the order of rotation specified in Schedule-V, where it applies. In the light of the above provision, in the cases on hand, when the Tamil Nadu Public Service Commission has prepared the selection list based on merit and the marks obtained by the candidates, it has to place the candidates on the basis of merit applying the rule of reservation and the roster point. In the cases on hand, the learned standing counsel for the Tamil Nadu Public Service Commission stated that after the selection of the eligible candidates through direct recruitment, for the first time, the roster point has been applied. Therefore, this Court is unable to find any infirmity with the impugned order.

19. For all the aforementioned reasons, the writ petitions fail and they are dismissed. Consequently, M.P.Nos.1 & 2 of 2015 and W.M.P.Nos.30920 to 30926 of 2016 are also dismissed. No costs."

4. In view of the above, this Writ Petition fails and dismissed. No costs. Consequently, connected Miscellaneous Petition also dismissed.

-s/d-

Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

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To

1. The Secretary,
Tamil Nadu Public Service Commission,
Chennai.

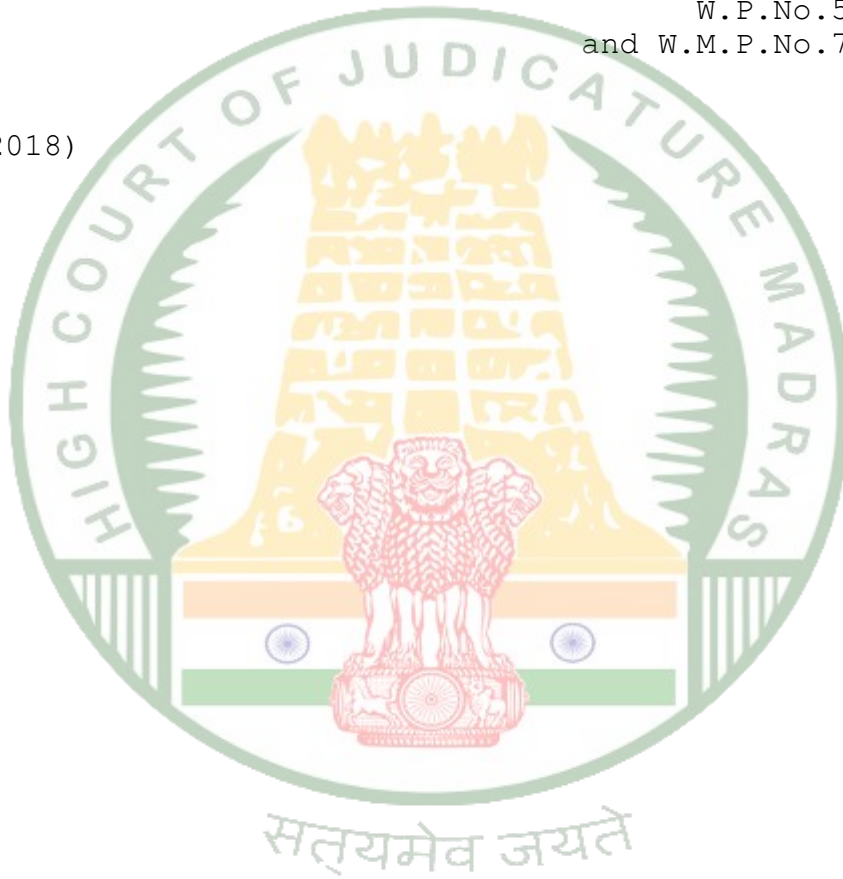
2. The Secretary to Govt. of Tamil Nadu,
Personnel and Administrative Reforms Department,
Fort St. George,
Chennai-9.

3.The Commissioner,
Milk Production and Dairy Development Department,
Chennai-51.

+1 CC to Mr.T.R.Sathiyamohan, advocate sr 20560.

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SAI (CO)
SP (03/04/2018)



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