

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.09.2018

CORAM:

THE HONOURABLE MR. JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM

W.A.Nos.1932, 1933, 1957 and 1886 of 2018 and
CMP.Nos.15534, 15535, 15661, 15204 and 15758/2018

W.A.Nos.1932 and 1933/2018

R.Govindarajalu Appellant in W.A.No.1932/2018
Ramadurai Murugan Appellant in W.A.No.1933/2018

Vs

1. R.Pannerselvam
2. State of Tamil Nadu
rep. by the Chief Secretary,
Fort St. George,
Chennai-9.
3. The Principal Secretary to Government,
Revenue Department,
Fort St. George,
Chennai-9.
4. The Principal Secretary to Government,
Personnel and Administrative Department,
Fort St. George, Chennai-9.
5. K.Tamilselvi
6. T.R.Malliga
7. K.Madhiyazhagan
8. M.S.Mohamed Aslam
9. G.Mohanarajan
10. N.Kadiresan
11. P.Kriubanandam
12. N.Sundaramurthy
13. J.Shanmugam
14. S.Rajendran
15. T.Arun
16. M.Babu
17. K.Benedict Dharma Roy
18. V.Anitha

19.P.Chinnasamy
20.A.Muniandi
21.P.V.Saravanan
22.R.Govindarajulu
23.M.Selvi
24.S.Senthamarai
25.T.Subramanian
26.V.Manoharan
27.K.Shanmuganathan
28.D.Rajendran
29.K.Periathambi
30.G.Mahatma
31.I.Valarmathi
32.E.Selvaraju
33.R.Janaki
34.P.Jayaraman
35.C.Rajendran
36.R.Jayakumari
37.M.Chandran
38.C.Murugaian
39.K.Saraswathi
40.S.Senniappan
41.Mangala Rama Subramanian
42.M.Parameswari
43.A.Mohan
44.V.Muthusami
45.S.Govindarajan

... Respondents in W.A.Nos.1932 &
1933/2018

W.A.No.1957/2018 :

T.Subramanian

vs.

... Appellant

1. R.Pannerselvam

2. State of Tamil Nadu सतयमेव जयते
rep. by the Chief Secretary,
Fort St. George,
Chennai-9.

3. The Principal Secretary to Government,
Revenue Department,
Fort St. George,
Chennai-9.

4. The Principal Secretary to Government,
Personnel and Administrative Department,
Fort St. George, Chennai-9.

5. K.Tamilselvi
6. T.R.Malliga
7. K.Madhiazhagan
8. M.S.Mohamed Aslam
9. G.Mohanarajan
- 10.N.Kadiresan
- 11.P.Kriubanandam
- 12.N.Sundaramurthy
- 13.J.Shanmugam
- 14.S.Rajendran
- 15.T.Arun
- 16.M.Babu
- 17.K.Benedict Dharma Roy
- 18.V.Anitha
- 19.P.Chinnasamy
- 20.A.Muniandi
- 21.E.V.Saravanan
- 22.R.Govindarajulu
- 23.M.Selvi
- 24.S.Senthamarai
- 25.V.Manoharan
- 26.K.Shanmuganathan
- 27.D.Rajendran
- 28.K.Periathambi
- 29.G.Mahatma
- 30.I.Valarmathi
- 31.E.Selvaraju
- 32.R.Janaki
- 33.P.Jayaraman
- 34.T.Ramadurai Murugan
- 35.C.Rajendran
- 36.R.Jayakumari
- 37.M.Chandran
- 38.C.Murugaian
- 39.K.Saraswathi
- 40.S.Senniappan
- 41.Mangala Rama Subramanian
- 42.M.Parameswari
- 43.A.Mohan
- 44.V.Muthusami
- 45.S.Govindarajan

W.A.No.1886/2018 :

1. Valarmathi
2. M.Parameswari
3. V.Muthuswamy
4. S.Govindarajan

... Respondents

... Appellants

vs.

1. R.Pannerselvam
2. State of Tamil Nadu
rep. by the Chief Secretary,
Fort St. George,
Chennai-9.
3. The Principal Secretary to Government,
Revenue Department,
Fort St. George,
Chennai-9.
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5. K.Tamilselvi
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9. G.Mohanarajan
- 10.N.Kathiresan
- 11.P.Kriubanandam
- 12.N.Sundaramurthy
- 13.J.Shanmugam
- 14.S.Rajendran
- 15.P.Arun
- 16.M.Babu
- 17.K.Benedict Dharma Roy
- 18.B.Anitha
- 19.P.Chinnasami
- 20.A.Muniandi
- 21.E.V.Saravanan
- 22.R.Govindarajulu
- 23.M.Selvi
- 24.S.Senthamarai
- 25.T.Subramanian
- 26.V.Manoharan
- 27.K.Shanmuganathan
- 28.B.Rajendran
- 29.K.Periathambi
- 30.G.Mahatma
- 31.E.Selvaraju
- 32.R.Janaki
- 33.P.Jayaraman
- 34.C.Rajendran
- 35.T.Ramaduraimurugan

36.R.Jayakumary
37.M.Chandran
38.P.Murugaian
39.K.Saraswathi
40.S.Chenniappan
41.R.Mangala Rama Subramanian
42.A.Mohan

... Respondents

Prayer(for All Writ Appeals) : Writ Appeal filed under Clause 15 of the Letter Patent against the Common Order dated 24.07.2018 passed in W.M.P.Nos.16584, 9931, 18009, 8758 and 8759/2018 in W.P.Nos.7974 and 7067/2018 by a learned Single Judge.

WMP No.18009 of 2018: Writ Miscellaneous Petition is filed to vacate the interim stay granted by this Honourable Court dated 5.4.2018 made in WMP No.9931 of 2018 in WP No.7974 of 2018.

WMP No.9931 of 2018:Writ Miscellaneous Petition is filed to grant interim stay of the promotion panel in G.O.Ms.No.102 (Public Special-A) Department dated 02.02.2018, by the 1st respondent pending disposal of the above Writ Petition.

W.P.No.7974 of 2018:Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records of the 1st respondent in G.O.Ms. No.102 (Public Special-A) Department dated 02.02.2018 and quash the same and further direct the 1st Respondent to consider the names of the petitioners for promotion to the post of District Revenue Officer.

For Appellants :: Mr.K.V.Dhanapalan
in W.A.Nos.1932 and 1933/2018
Mr.Fr.Xavier Arulraj, Senior
Counsel
for T.Fenn Walter Association
in W.A.Nos.1957/2018
Mr.NGR.Prasad
for M/s.S.Vijayakumar in
W.A.No.1886/2018

For Respondents :: Mr.Adithya Reddy for R1 in
W.A.Nos.1932,1933 & 1957/2018
Ms.Dakshayani Reddy for
Mr.Adithya Reddy for R1 in
W.A.No.1886/2018
Mr..Vijaya Narayan
assisted by M/S.R.Govindasamy, Spl.G.P.
for R2 to R4 in all W.As.

COMMON JUDGMENT

(Judgment of the Court was pronounced by HULUVADI G.RAMESH, J.)

These Writ Appeals are directed against the Common Order dated 24.07.2018 passed in W.M.P.Nos.16584, 9931, 18009, 8758 and 8759 of 2018 in W.P.Nos.7974 and 7067/2018 by a learned Single Judge.

2. Writ Petitions in W.P.Nos.7067 & 7974 of 2018 have been filed challenging the order of relaxation of Rule 2(a) of Special Rules in Tamil Nadu Civil Services in G.O.Ms.No.102 (Public Special-A) Department, dated 02.02.2008 the temporary panel of Deputy Collectors fit for promotion as District Revenue Officers in the year 2017 and the temporary panel in G.O.Ms.No.103 (Public Special-A) Department, dated 02.02.2018, by the direct recruitees on the ground that relaxation is contrary to law and it would affect their promotion. W.M.P.Nos.9931 & 8759 of 2018 have been filed seeking stay of the Government Orders. The learned Single Judge granted an order of interim stay on 05.04.2018. Thereupon, W.M.P.Nos.16584 & 18009 of 2018 came to be filed to vacate the interim order. However, the learned Single Judge while extending the interim order, dismissed the vacate stay petitions. Aggrieved over the same, the above Writ Appeals have been filed.

3. The learned counsel for the appellants would urge that the writ petitioners are far juniors of the appellants and the appellants were appointed in permanent vacancies in accordance with the prescribed Rules and they are fully qualified to hold the post of Deputy Collectors and to be promoted to the post of District Revenue Officers and non declaration of probation of the Deputy Collectors appointed by the transfer is not on their fault, but only due to administrative delay. The learned counsels have also relied upon the order of the Hon'ble Supreme Court, dated 17.05.2018 in SLP(C)No.30621 of 2011, wherein it has been held that pendency of the Special Leave Petition shall not stand in the way of Union of India taking steps for the purpose of promotion from 'reserved to reserved' and 'unreserved to unreserved' and also in the matter of promotion on merits.

4. Learned Advocate General appearing for the State contended that in respect of the relaxation granted for Rule 2A of the Special Rules, the Hon'ble Division Bench of this Court passed an order in the matter of reservation for promotion, against which an S.L.P. is filed. The same is pending before the Supreme Court for final hearing. Under such circumstances, the State granted relaxation in favour of the senior persons in the cadre of Deputy Collector. He further submitted that the contesting respondents had joined in the post of Deputy

Collector before the writ petitioners. Thus, they are actually seniors and on account of the pending litigations, their probations are unable to be declared. Therefore, on account of administrative delay, the innocent officials cannot be made to suffer for no fault committed by them. Thus, soon after the disposal of the Special Leave Petition pending before the Apex Court, all necessary steps will be taken to redress the grievances of all concerned.

5. The learned counsel for the first respondent in Writ Appeal No.1886 of 2018 would state that while effecting appointment by transfer to the post of Deputy Collector, the ratio laid down for direct recruitment and recruitment by transfer has not been followed strictly and promotions have been given in excess to that ratio.

6. Considered the rivals submissions made on either side and we have also perused the materials available on record carefully.

7. Though several grounds have been raised in these writ appeals, taking note of the observation of the Hon'ble Supreme Court and the fact that the appeals have been filed only against a common interim order passed by the learned Single Judge dated 24.7.2018 and the main Writ Petitions are pending consideration before the Single Judge and also the fact that Special Leave Petition which has been filed against the rule of reservation is still pending before the Supreme Court, we are of the view that while effecting promotion to the post of District Revenue Officers, the ratio laid down for direct recruitees quota as well as the appointment by transfer quota shall be strictly followed. Anyhow, it is made clear that any promotion made is subject to the result of the writ petitions and the matter pending before the Supreme Court.

8. With the above observation and direction, the Writ Appeals are disposed of. Consequently, the connected miscellaneous petitions are closed. No costs.

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Assistant Registrar(CS VIII)

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Sub Assistant Registrar

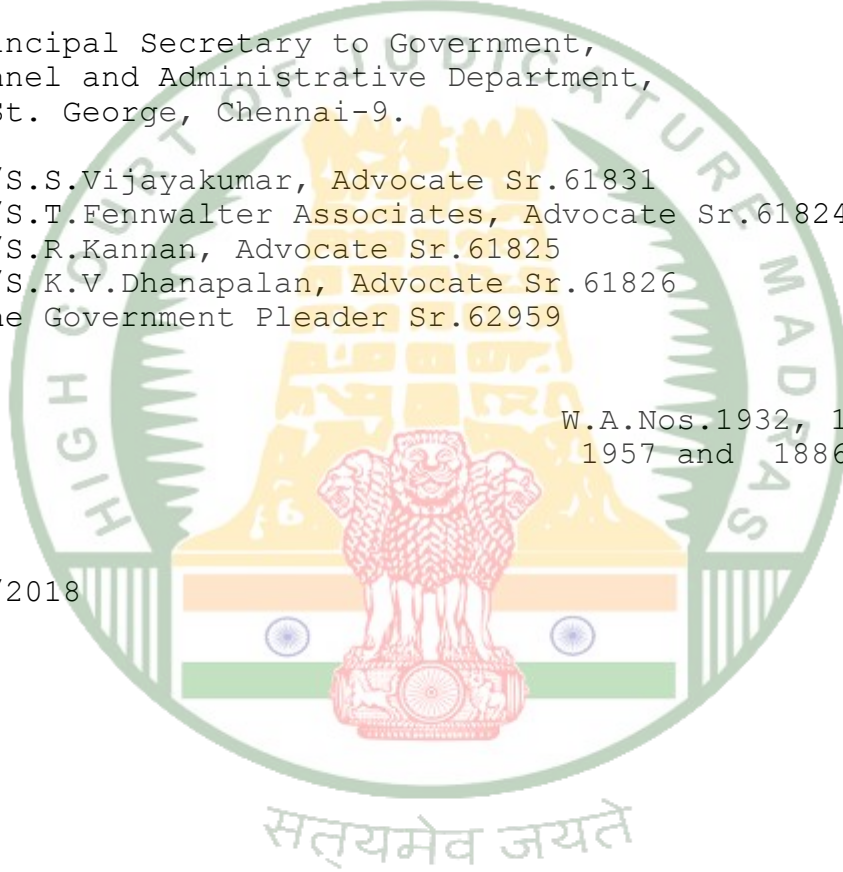
To

1. The Chief Secretary,
State of Tamil Nadu,
Fort St. George,
Chennai-9.
2. The Principal Secretary to Government,
Revenue Department,
Fort St. George,
Chennai-9.
3. The Principal Secretary to Government,
Personnel and Administrative Department,
Fort St. George, Chennai-9.

+1cc to M/S.S.Vijayakumar, Advocate Sr.61831
+2cc to M/S.T.Fennwalter Associates, Advocate Sr.61824
+2cc to M/S.R.Kannan, Advocate Sr.61825
+2cc to M/S.K.V.Dhanapalan, Advocate Sr.61826
+1cc to the Government Pleader Sr.62959

W.A.Nos.1932, 1933,
1957 and 1886/2018

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srg 24/09/2018



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