



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **18.09.2018**

CORAM:

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

and

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.A. (MD)Nos.292 to 296 of 2016

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N.Mohan : Appellant/Petitioner in W.A. (MD)No.292 of 2016
R.Vijayakumar : Appellant/Petitioner in W.A. (MD)No.293 of 2016
P.Valasundaram : Appellant/Petitioner in W.A. (MD)No.294 of 2016
R.Ganesan : Appellant/Petitioner in W.A. (MD)No.295 of 2016
M.Kuppan alias T.K.Khuppusami : Appellant/Petitioner in W.A. (MD)No.296 of 2016

Vs.

1. The Secretary to Government,
Social Welfare Department,
Secretariat, Chennai-600 009.

2. The Commissioner of Social Welfare,
No.58/70, Arunachalam Street,
Chinthathiripet,
Chennai-600 002.

: Respondents/Respondents in all W.As.

COMMON PRAYER: Writ Appeals are filed under Clause 15 of Letters Patent to set aside the order dated 17.10.2014 passed in W.P. (MD) Nos.16944, 16945, 16946, 16947 and 16948 of 2014 respectively and direct the first respondent to consider the representations dated 07.10.2014, 15.09.2014, 12.09.2014, 12.09.2014 and 11.08.2014, respectively, of the appellants, in the light of the earlier Division Bench judgments made in W.A. (MD)Nos.802 to 809 of 2011, dated 14.09.2011, within a specified time frame.

Prayer in WP(MD)NO. 16944 OF 2014 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus, directing the respondent i.e., the Secretary to Government, Social Welfare Department, Chennai, to dispose off the Petitioner s representation dated 07.10.2014 praying notional promotion and consequent re-fixation of pension in the cadre of Superintendent on par with his junior Tmt.Vedamani on merits and in accordance with law within a specified time frame that may be fixed by this Honourable High Court.

Prayer in WP(MD)NO. 16945 OF 2014 :

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

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of



Mandamus, directing the respondent i.e., the Secretary to Government, Social Welfare Department, Chennai, to dispose off the Petitioner s representation dated 15.09.2014 praying notional promotion and consequent re-fixation of pension in the cadre of Superintendent on par with his junior Tmt.V. Soosai Arul Mary, on merits and in accordance with law within a specified time frame that may be fixed by this Honourable High Court.

Prayer in WP(MD)NO. 16946 OF 2014 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus, directing the respondent i.e., the Secretary to Government, Social Welfare Department, Chennai, to dispose off the Petitioner s representation dated 12.09.2014 praying notional promotion and consequent re-fixation of pension in the cadre of Superintendent on par with his junior Tmt.V. Soosai Arul Mary, on merits and in accordance with law within a specified time frame that may be fixed by this Honourable High Court.

Prayer in WP(MD)NO. 16947 OF 2014 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus, directing the respondent i.e., the Secretary to Government, Social Welfare Department, Chennai, to dispose off the Petitioner s representation dated 12.09.2014 praying notional promotion and consequent re-fixation of pension in the cadre of Superintendent on par with his junior Tmt.V. Soosai Arul Mary, on merits and in accordance with law within a specified time frame that may be fixed by this Honourable High Court.

Prayer in WP(MD)NO. 16948 OF 2014 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus, directing the respondent i.e., the Secretary to Government, Social Welfare Department, Chennai, to dispose off the Petitioner s representation dated 11.08.2014 praying notional promotion and consequent re-fixation of pension in the cadre of Superintendent on par with his junior Tmt.K. Rajendran, on merits and in accordance with law within a specified time frame that may be fixed by this Honourable High Court.

For Appellants : Mr.S.Visvalingam

For Respondents : Mr.K.Saravanan,
Government Advocate

**COMMON JUDGMENT**

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

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These Writ Appeals have been preferred against the order of a learned Single Judge dated 17.10.2014, by which, the Writ Petitions have been dismissed on the ground that the juniors of the appellants were appointed in the promotional posts earlier and there was delay in making the representations.

2. The learned counsel appearing for the appellants would submit that there are instances where even after retirement, notional fixation has been made. The learned counsel would further submit that what was in vogue earlier was a districtwide seniority, which was changed in the Statewide. At that point of time, some of the juniors of the appellants were promoted by taking into consideration of the vacancies in the districts. The appellants were not aware of it and that is the reason why, they have given belatedly. The learned counsel has also made reliance upon the earlier order passed by this Court in W.P.(MD)No.5111 of 2014, dated 24.03.2014 in support of his contention.

3. The learned Government Advocate appearing for the respondents would submit that the seniority was drawn in the year 1997, but the appellants gave representations only in the year 2014, which is after three, four, seven, ten and eight years from retirement respectively.

4. Law is well settled insofar as the entitlement of pension is concerned. There is no denial on the ground of delay and laches as it has to be done as a matter of right. The appellants' contention is that their juniors are drawing more pension. Now, there is no question of any salary being paid on par with them, but, only fixing the pension on the basis that the appellants are to be placed notionally on par with the juniors.

5. Considering the above, we direct the first respondent to look into the representations of the appellants dated 07.10.2014, 15.09.2014, 12.09.2014, 12.09.2014 and 11.08.2014, respectively, and pass appropriate orders on merits and in accordance with law, within a period of twelve weeks from the date of receipt of a copy of this judgment. We make it clear that we are not expressing any opinion on the merits of the matter. While doing so, the first respondent shall not be influenced by the observation made by the learned Single Judge. The appellants are also directed to send a copy of the said representations along with a copy of this judgment to the first respondent, within a period of two weeks from the date of receipt of a copy of this judgment.



6. The Writ Appeals stand disposed of accordingly. No costs.

Sd/-

Assistant Registrar (CS-I)

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/True Copy/

Sub Assistant Registrar (CS-IV)

To

1. The Secretary to Government,
Social Welfare Department,
Secretariat,
Chennai-600 009.
2. The Commissioner of Social Welfare,
No.58/70, Arunachalam Street,
Chinthathiripet,
Chennai-600 002.

+5cc to Mr.S.Visvalingam, Advocate Sr.No.84936, 84937, 84938,
84939, 84940

+1cc to Spl.Government Pleader Sr.No.85196

SML

VB/RSK/SAR4/10.10.2018/3P/9C

Common Judgment made in
W.A. (MD) Nos.292 to 296 of 2016
Dated: 18.09.2018