

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.01.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.VENUGOPAL  
AND  
THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

W.P.No.50093 of 2006

R.Ramesh  
Steno-Typist,  
Additional District Court  
(Fast Track Court),  
Ariyalur,  
Perambalur District.

... Petitioner

Vs.

1. Secretary to Government,  
Personnel and Administrative Reforms (B) Department,  
Fort St.George, Chennai-600 009.
2. Secretary to Government,  
Home (Courts V) Department,  
Fort St.George, Chennai-600 009.
3. Registrar General,  
Madras High Court,  
Chennai.
4. The Principal District Judge,  
Tiruchirapalli District,  
Tiruchirapalli.
5. The District Judge,  
Perambalur District,  
Perambalur.
6. K.Kandeepan,  
Translator, Mahila Court,  
Perambalur.
7. M.S.Viswanathan,  
Head Clerk, Munsif Court,  
Jayankondam.

8. R.Rengarajan,  
Deputy Nazir, Principal District Munsif Court,  
Ariyalur.
9. K.Pugalenthir,  
Superintendent of Copyists,  
District Court, Perambalur.
- 10.R.Selvaraj,  
Translator, District Court,  
Perambalur.
- 11.K.Jayamurugan,  
Head Clerk, Sub-Court,  
Ariyalur.
- 12.R.Sekar,  
Head Clerk,  
Judicial Magistrate Court,  
Jayankondam.
- 13.P.Subbu,  
Head Clerk, Judicial Magistrate Court,  
Ariyalur.
- 14.S.Ramalingam,  
Head Clerk, Judicial Magistrate Court,  
Perambalur.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus to direct the Fifth Respondent herein to assign appropriate seniority ranking to the Petitioner in the post of Assistant in the light of his placement in the original combined seniority list that obtained prior to 01.08.1992 in accordance with General Rule of 35(a) of the Tamil Nadu State and Subordinate Service Rules, together with all consequential benefits. (Prayer amended as per Order dated 09.09.2014 in M.P.No.1 of 2014 in W.P.No.50093 of 2006).

For Petitioner : Mr.N.Anbazhagan

For Respondents : Mr.S.N.Parthasarathy,  
Govt. Advocate for RR-1, 2, 4 & 5

Ms.D.Arokia Mary Sophia for  
Mr.P.K.Rajagopal for R-3

Mr.R.Balasubramanian for RR-6 to 14

## ORDER

(The Order of the Court was made by M.Venugopal, J)

The Petitioner has filed this Writ Petition for issuance of a Writ of Mandamus to direct the Fifth Respondent herein to assign appropriate seniority ranking to the Petitioner in the post of Assistant in the light of his placement in the original combined seniority list obtained prior to 01.08.1992 in accordance with General Rule of 35(a) of the Tamil Nadu State and Subordinate Service Rules, together with all consequential benefits. (Prayer amended as per Order dated 09.09.2014 in M.P.No.1 of 2014 in W.P.No.50093 of 2006).

2. Heard both sides and perused the materials available on record. On behalf of Respondent Nos.1 to 5, counter affidavits are filed. No counter affidavit is filed on behalf of Respondent Nos.6 to 14.

3. According to the Petitioner, he was selected as Steno-Typist through the Tamil Nadu Public Service Commission (TNPSC) and was allotted to the erstwhile Chief Judicial Magistrate's Court, Tiruchirapalli. He joined as Steno-Typist on 25.03.1992 forenoon in the Court of learned Judicial Magistrate No.2, Karur, as per the proceedings of the Chief Judicial Magistrate, Tiruchirapalli, in the time scale of pay of Rs.975/-. The promotional avenue open to a Steno-Typist was the post of Assistant in the pay scale of Rs.1,200/-. The post of Assistant has the feeder grade of the post of Junior Assistant, Typist and Steno-Typist. Earlier, the ratio of promotion used to be 4:1 between the grades of Junior Assistant on the one hand and Typist/Steno-Typist on the other. Indeed, the ratio was quashed by the Tamil Nadu State Administrative Tribunal, in T.A.No.1449 of 1989. As such, a candidate who was appointed as Steno-Typist, had the opportunity of getting promoted as Assistant and then as Head Clerk in the Magistrate Court and then as Deputy Nazir in the Munsif Court. As a matter of fact, the post of Deputy Nazir in the Munsif is equivalent to the post of Superintendent in the Ministerial Service.

4. While that be the fact situation, on 01.08.1992, the First Respondent/Secretary to Government, Personnel and Administrative Reforms Department (P & A.R), Chennai, had issued a Government Order in G.O.Ms.No.256, directing that the post of Typist/Steno-Typist be bifurcated with immediate effect into two categories, viz., Typist and Steno-Typist. Consequent to this splitting, Category No.17 under Rule 1 of the Special Rules for Tamil Nadu Ministerial Service had to be amended suitably with the two different categories, i.e. Typist and Steno-Typist, i.e. Category 17: Steno-Typist and Category 17(a): Typist including Machinists in the Treasuries and Accounts Department. Moreover,

the scale of pay of Steno-Typist in the Tamil Nadu Judicial Ministerial Service was directed to be revised from Rs.975-1660 to Rs.1200-2040 with effect from 01.08.1992.

5. It comes to be known that the First Respondent/Secretary to Government, P & A.R. Department, issued another Government Order, viz., G.O.Ms.No.284, dated 19.08.1992, accepting the recommendation of the Official Committee for designating the post of Steno-Typist other than Secretariat as Steno-Typist Grade-III and that the existing post of Upper Division Steno-Typist wherever available, be converted as Steno-Typist Grade I and Grade II in the scale of pay for Steno-Typist - Grade-I as Rs.1600-2660, Steno-Typist -Grade II as Rs.1400-2600 and Steno-Typist - Grade III as Rs.1200-2040.

6. Apart from the above conversion, the First Respondent issued another Government Order in G.O.Ms.No.417, dated 01.12.1993, in which it is stated that "in the Government Order third read above, the category of Typists including Steno-Typists in the Tamil Nadu Ministerial Service has been split into two categories viz., Category-17-Steno-Typist and Category 17(a)-Typists including Machinists in the Tamil Nadu Treasury and Accounts Department. The version of the Petitioner is that by virtue of splitting of the category, a separate line of promotion has been provided for Steno-Typists. Further, in the Government Order Fourth read therein, a Steno-Typist in the Tamil Nadu Ministerial Service has initially to be appointed as Steno-Typist Grade-III carrying the scale of pay identical to that of Assistant in the Tamil Nadu Ministerial Service and he is eligible for promotion as Steno-Typist Grade II and Grade I as per the above Government Order dated 19.08.1992. Also that in the Government Letter Fifth read therein, it was clarified that Steno-Typist Grade II was not to be considered for appointment to the post of Assistant along with Typists and Junior Assistants, and in view of these instructions, Steno-Typist stand excluded for promotion as Assistant in the Tamil Nadu Ministerial Service with effect from 01.08.1992.

7. In the subject matter, a clarification letter, dated 28.01.1993 was issued by the Office of the First Respondent to the effect that after certain period of service rendered in the category of post of Assistant, the Stenographers Grade-II and III would be considered for appointment to the post of Superintendent. By means of subsequent letter, dated 28.08.1995, the Government clarified that the request for promotion of Steno-Typist as Superintendent was not feasible of compliance.

8. It transpires that the First Respondent had issued G.O.Ms.No.93, dated 08.04.1994, directing that the Order issued vide G.O.Ms.No.256, dated 01.08.1992 be given retrospective effect from 01.06.1988. Furthermore, the Government had

clarified that the conferment of Selection Grade and Special Grade could not be equated with Grade II and I as far as Steno-Typists are concerned. The issue of fixation of seniority was yet to be satisfactorily resolved. The drawal of such a seniority list became imperative so that the senior most Steno-Typist Grade III could be upgraded as Steno-Typist Grade I and attached to the Head of the Department or depending on the seniority upgraded as Steno-Typist Grade II and attached to the Additional Director and other Second Level Officer like Joint Director. The Steno-Typists in the Mofussil Court are occupying a peculiar position and the gradation system could not be implemented.

9. The Petitioner comes out with a plea that the Stenographer-Grade-I would have to be necessarily attached to this Court, since it is this Court which is the Head of the Department for Judicial Service. A Stenographer Grade-II would be attached to the District Judge. That being the case, the persons like the Petitioner who got re-designated as Grade-III Steno-Typist, following G.O.Ms.No.256, dated 01.08.1992, continues to remain in the same position, even though more than 14 years of unblemished service was completed by him.

10. It is represented on behalf of the Petitioner that injustice was caused to the Petitioner because of the fact that a number of persons who got promoted as Assistants subsequent to the Petitioner's joining, have since secured further promotion. For example, one K.Kandeepan was promoted as Assistant on 16.06.1994 and he is now working as Translator in Mahila Court, Perambalur, which is in the pay scale equal to that of Superintendent. All the private Respondents arrayed as parties in the present Writ Petition, got promotion as Assistants much later and they have now been given further promotion and were drawing higher scales of pay. If really the Petitioner was promoted as Steno-Typist Grade-II or Steno-Typist Grade-I and granted the pay scale higher to what the Petitioner is presently drawing, then he may not have any real grievance. But the fact of the matter is that notwithstanding the fact that the Petitioner had completed 14 years of unblemished service, the Petitioner was not promoted as Steno-Typist Grade II or Grade I and he has the "cause of action" to seek the claim that he should be notionally considered as a candidate in the grade of Assistant with effect from 01.08.1992 and his promotional prospects be worked out accordingly. In any event, the plea of the Petitioner is that he should be considered as senior to K.Kandeepan and then granted the consequential benefits. He makes this plea because of the fact that in the Judicial Ministerial Service, the system of upgradation in the Grade of Steno-Typist was not implemented at all and that apart, his plea in this regard does not suffer from any laches. Added further, the 'cause of action' for the present Writ petition springs from

the stagnation caused to the Petitioner.

11. On behalf of the Petitioner, it is brought to the notice of this Court that the then Registrar (Administration), by letter dated 07.11.2005, addressed to the Second Respondent/Secretary to Government, Home (Courts-V) Department, Chennai, had called upon the Government to clarify in regard to the position of the Steno-Typist and the Government came out with a communication dated 13.02.2006 and according to the Petitioner, the said communication does not address the issues raised by this Court at all.

12. In view of the fact that the ban against posting the Steno-Typist Grade-III as Assistant got lifted as per G.O.Ms.No.34, dated 21.02.2001 issued by the First Respondent with effect from 05.08.2000, and the conditions specified in the said G.O. cannot be applied to Steno-Typist working in the Judicial Ministerial Service. The Petitioner gave his first Representation on 26.02.2001 to the District Judge, Perambalur and the same was endorsed by the Fifth Respondent/District Judge, Perambalur on 22.03.2001 to the effect that his prayer would be considered at the appropriate time. Few more representations were made by the Petitioner and the last one was dated 27.03.2006. Since the Petitioner is left with no other option, but to file the present Writ Petition, he has now sought the relief of issuance of a direction by this Court in directing the Fifth Respondent to assign appropriate seniority ranking to him in the post of Assistant in the light of his placement in the original combined seniority list obtained prior to 01.08.1992 in accordance with General Rule 35(a) of the Tamil Nadu State and Subordinate Service Rules, together with all consequential benefits.

13. The Learned Counsel for the Petitioner cites an order dated 31.10.2017 passed by the Madurai Bench of this Court in W.P.(MD).Nos.21358 to 21361 of 2016, wherein in paragraph 15, it is observed as follows:

"15. It is also relevant to deal with two of the contentions made by Mr.Muthugeethayan, learned counsel for the impleaded respondents. Firstly, it is his contention that the petitioners failed to implead the beneficiaries/promotees of the select list in the writ proceedings. Since the issue raised in the present writ petitions is only with regard to the application of Rule 35(b) and it is not their case that the juniors who were given promotion overlooking their seniority should be recalled, this Court is not inclined to deal with the same, as this Court has to

answer whether rule 35(aa) or 35(b) will apply to the case of the petitioners. Secondly, a reference was made to the order passed in W.A.(MD).No.1145 of 2006, which is also said to have been confirmed by the Apex Court in S.L.P.(C).No.19324 of 2009 on 13.1.2014. I do not find any merit in the said contention. It is the admitted case of the impleaded respondents that the ratio of 4:1 fixed by the Government in G.O.Ms.No.224, dated 8.3.84 was set aside by this Court in the reported judgment in 2007 W.L.R. 58. Since the petitioners have not made any prayer for application of the ratio of 4:1, that argument also is bereft of any substance."

14. In Response, the Learned Government Advocate for the Respondent Nos.1, 2, 4 and 5 submitted that the Petitioner commenced his career as Documentation Assistant in Regional Engineering College, Tiruchirapalli and he joined duty on 01.03.1988 Forenoon with a starting salary of Rs.610/- per month in the time scale of pay of Rs.610-20-730-25-955-30-1075. His probation was declared as Documentation Assistant on 28.02.1990 afternoon in the Regional Engineering College, Tiruchirapalli. In reality, he resigned his job with effect from 24.03.1992 and relieved on that day afternoon.

15. It is the stand of the First Respondent that the Petitioner was sponsored by the Tamil Nadu Public Service Commission, Chennai, as per Letter, dated 03.03.1992 in the cadre of Steno-Typist and was appointed as Steno-Typist transitorily and posted to officiate as Steno-Typist by means of proceedings of the Chief Judicial Magistrate, Tiruchirapalli, dated 24.03.1992 in the time scale of pay of Rs.975-25-1150-30-1600 and he joined duty in the Judicial Department in the forenoon of 25.03.1992.

16. The Learned Government Advocate appearing for the Respondent Nos.1, 2, 4 and 5 submits that as per G.O.Ms.No.256, P & A.R. (Per-B) Department, dated 01.08.1992, it was ordered to bifurcate the post of Typist/Steno-Typist in the Tamil Nadu Ministerial Service in two categories, viz., Typist and Steno-Typist and the scale of pay was revised in the post of Steno-Typist and Personal Clerk in the Tamil Nadu Ministerial Service, the Tamil Nadu Secretariat Service and the Tamil Nadu Judicial Ministerial Service from Rs.975-1660 to Rs.1200-2040 with effect from the date of issuance of the above order, i.e. with effect from 01.08.1992. Later, based on the recommendation of the Official Committee, the Government, in G.O.Ms.No.284, P & A.R. (Per-B) Department, dated 19.08.1992, ordered designating the

post of Steno-Typist other than Secretariat as Steno-Typist Grade III and that the existing post of Upper Division Steno-Typist wherever available be converted as Steno-Typist Grade-I and Grade-II in the respective scale of pay, i.e. Steno-Typist Grade I - Rs.1600-2660, Steno-Typist Grade II - Rs.1400-2600 and Steno-Typist Grade-III - Rs.1200-2040.

17. The Learned Government Advocate for the Respondent Nos.1, 2, 4 and 5 points out that as per the ingredients of the said G.O.Ms.No.284, the pay of the individual (Basic Pay Rs.1025/-, Special Pay Rs.140/-) Rs.1165/- in the ordinary grade scale of pay of Rs.975-25-1150-30-1600 had been re-fixed at Rs.1200/- in the Steno-Typist Grade-III in the revised scale of pay of Rs.1200-30-1560-40-2040 and thus, the Petitioner was given the benefits of the said G.O.Ms.No.284.

18. At this stage, the Learned Government Advocate proceeds to point out that as per Rule 5 of the Special Rules for the Tamil Nadu Ministerial Service, as it originally stood, there was no ratio for promoting the Junior Assistants and Typists/Steno-Typists as Assistants in the said Service. Later, in G.O.Ms.No.245, P & A.R. (Per.B) Department, dated 12.03.1985, the Special Rules for the Tamil Nadu Ministerial Service were amended, introducing the following proviso to Rule 5 of the Special Rules for the Tamil Nadu Ministerial Service:

"Provided also that out of every five vacancies in the post of Assistant and the posts which carry the scale of pay of Assistant, the first four vacancies shall be filled up from the post of Junior Assistant and the posts which carry the scale of pay of Junior Assistant and the fifth vacancy shall be filled up from the posts of Typist including Steno-Typist."

19. In the interregnum, in T.A.No.1429 of 1989 (W.P.No.9783 of 1987) and batch of cases filed by certain Typists, Steno-Typists, Junior Assistants etc., the ratio of 4:1 was assailed before the Tamil Nadu Administrative Tribunal and the Tribunal, on 27.11.1992, quashed the said ratio as one violative of Articles 14 and 16 of the Constitution of India. In fact, the Tribunal had observed that the ratio of 4:1 was not based on any reasonable criteria correlated either to experience or qualifications or the duration of service which are the considerations generally adopted in deciding promotion.

20. The Learned Government Advocate for the Respondents 1, 2, 4 and 5 further refers to the salient points mentioned in the order of the Tribunal, which runs as follows:

"(i) The ratio had been prescribed without taking into account the number of persons belonging to the different categories, resulting in disparity in chances of promotion;

(ii) It will be desirable that the Typists/Steno-Typists work as Junior Assistants before they could be promoted as Assistant since directly promoting as Typist/Steno-Typist as Assistant without any experience in clerical work is not in the best interest of efficiency of office work;

(iii) For promotion to the post of Assistant, combined seniority of Junior Assistants and Typists/Steno-Typists will be preferable, because it is not desirable that the inter-se-seniority of the persons recruited in the same year should stand modified to some extent depending on rotation of vacancies;

(iv) If the categories (of Junior Assistants and Typists/Steno-Typists) are equated, combined seniority is possibly the best basis subject, however, to the requirement of the basic experience as would be a qualification and training for the responsibilities of a higher post to which one is promoted."

21. Resultantly, the Government in Letter No.7860/93-1, P & A.R. Department, dated 23.03.1993, have informed the Departments that pending finalisation of the procedures to be followed based on the orders of the Tribunal in the matter, promotion to the post of Assistant cannot be made following the ratio quashed by the Tribunal. In G.O.Ms.No.256, P & A.R. Department, dated 01.08.1992, the category of Typists including Steno-Typists in the Tamil Nadu Ministerial Service had been split into two categories, viz., Category 17 - Steno-Typist and Category 17(a) - Typists including Machinists in the Tamil Nadu Treasury and Accounts Department. Further that, a separate line of promotion had been provided for Steno-Typists in G.O.Ms.No.284, P & A.R. (B) Department, dated 19.08.1992.

22. The Learned Government Advocate comes out with an argument that a Steno-Typist in the Tamil Nadu Ministerial Service who was originally to be appointed as Steno-Typist Grade-III, which post carries the scale of pay identical to that of Assistant in the Tamil Nadu Ministerial Service, he/she would be eligible for promotion as Steno-Typist Grade-II and Grade-I as per the said order dated 19.08.1992. In fact, in Government

Letter No.89237/9201, P & A.R. (Per.B) Department, dated 23.11.1992, it was clarified that the Steno-Typist Grade-III was not to be considered for appointment to the post of Assistant along with Typist and Junior Assistant, because of the fact that separate line of promotion was created for Steno-Typist, and therefore, the Steno-Typist was excluded for promotion as Assistant in the Tamil Nadu Ministerial Service with effect from 01.08.1992.

23. The Learned Government Advocate points out that the Government have examined the whole gamut of the matter in consultation with the TNPSC in the teeth of the order of the Tamil Nadu Administrative Tribunal and the aforesaid Government Orders. Accordingly, in G.O.Ms.No.417, P & A.R. (Per.B) Department, dated 01.12.1993, the Government directed that the following revised procedures be adopted while promoting the Junior Assistants and Typists as Assistants in the Tamil Nadu Ministerial Service:

"(a) For purpose of appointment to the post of Assistant, a combined seniority list of Junior Assistants and Typists shall be drawn hereafter as observed by the Tamil Nadu Administrative Tribunal.

(b) The inter-se-seniority of the holders of the two categories of posts recruited in the same year shall be fixed with reference to the date of their regular appointments. However, the seniority among the Junior Assistants or the seniority among the Typists as fixed by the Tamil Nadu Public Service Commission shall not be altered while fixing their inter-se-seniority.

(c) All the seniors in the category of Typists who are likely to get their promotion as Assistants in the course of next one or two years shall be asked to undergo training as Junior Assistants for a period of one year by allotting a few subjects covering different aspects of the Department and they shall be allowed to dispose of the files without detriment to their typing work.

(d) While selecting Typists for training as Junior Assistants, strict seniority shall be adhered to.

(e) All Typists promoted to the post of Assistant shall undergo the Foundational Training at Civil Services Training Institute, Bhavanisagar, within a period of two years from the date of their promotion

as Assistant on a regular basis.

(f) The tests already prescribed, if any, will not be affected consequent on the changes mentioned above.

(g) In respect of future recruitments, the Tamil Nadu Public Service Commission is requested to prepare a combined seniority list of Junior Assistants and Typists based on the results of a common examination held by it. Promotions to the post of Assistant shall be made in accordance with the common seniority list after fixing the inter-seniority of candidates appointed as Junior Assistant/Typists by recruitment by transfer from lower posts like Record Clerks etc., along with the Commission candidates under Rule 35(aa) of the General Rules for the Tamil Nadu State and Subordinate Services.

(h) For the existing vacancies in the category of Assistant in the Tamil Nadu Ministerial Service, the appointing authorities shall draw a combined seniority list of Typists and Junior Assistants with reference to the date of their regular appointment keeping the Commission seniority intact and fill up the vacancies from this list without insisting on one year training ordered, since the present vacancies cannot be allowed to remain unfilled till the Typists undergo the training as Junior Assistants."

24. The Learned Government Advocate further adds that the resultant amendments to the Special Rules for the Tamil Nadu Ministerial Service took effect from 27.11.1992 and the same were issued in G.O.Ms.No.16, P & A.R. Department, dated 21.02.2002. Besides that, the Government had issued G.O.Ms.No.93, P & A.R. (B) Department, dated 08.04.1994, in and by which it was directed that the orders issued in G.O.Ms.No.256, P & A.R. (Per-B) Department, dated 01.08.1992 be given retrospective effect from 01.06.1988. The Government also directed that the appointment of Typist/Steno-Typist as Assistant in the Tamil Nadu Ministerial Service, and the Tamil Nadu Judicial Ministerial Service, made if any from 01.06.1988 to 01.08.1992 from the common seniority list for that category, would not be affected by the orders splitting the said category with retrospective effect from 01.06.1988 instead of from 01.08.1992. The Government also directed that the seniority of persons already appointed to the post of Assistant in the Tamil Nadu Ministerial Service/the Tamil Nadu Judicial Ministerial Service from the common category of Typist/Steno-Typist during

the period from 01.06.1988 to 01.08.1992 should not be disturbed.

25. The Learned Government Advocate contends that the Government, in G.O.Ms.No.256, P & A.R. (Per.B) Department, dated 01.08.1992 ordered to split the categories of Typist and Steno-Typist into two categories as Typist and Steno-Typist. With a view to create promotional avenues to the Steno-Typist in the same line, the Government in G.O.Ms.No.284, P & A.R. (B) Department, dated 19.08.1992 created new posts of Steno-Typist Grade I, Grade II and Grade III in the higher scale of pay of Rs.1600-2660, Rs.1400-2600 and Rs.1200-2040 respectively. The Government, through G.O.Ms.No.34, P & A.R. (B) Department, dated 21.02.2001, in fact, had lifted its earlier ban order imposed in Letter No.89237/92-1, P & A.R. (Per.B) Department, dated 23.11.1992 in regard to the consideration of Steno-Typist Grade-III for appointing as Assistant with effect from 05.08.2000. As per the aforesaid G.O., the service of the Steno-Typist Grade-III in the interim period of ban order from 01.08.1992 to 04.08.2000 could be taken into account as eligible period for appointment as Assistant. Also in the said G.O., it was ordered that since the scale of pay for the post of Assistant and the post of Steno-Typist Grade-III are identical, the Steno-Typist Grade-III could be appointed as Assistant by transfer. Besides this, the incumbent in the post of Steno-Typist Grade-III should give her/her option whether he/she is willing to be promoted as Steno-Typist Grade-II or to appoint as Assistant by transfer in the event of whichever occurs the earliest.

26. The Learned Government Advocate for Respondent Nos.1, 2, 4 and 5 further draws the attention of this Court to the aforesaid G.O., in which it was clearly mentioned that inasmuch as the scale of pay for the post of Steno-Typist Grade-III and the post of Assistant are identical, the appointment of Steno-Typist Grade-III as Assistant can be treated as appointment by transfer and not by promotion as in the case of Junior Assistant and Typist. Apart from the above, in terms of Rule 4 of the General Rule to the Tamil Nadu State and Subordinate Service Rules, the Steno-Typist Grade-III should be appointed as Assistant by transfer only and not by promotion, and as such, 5% of the vacancy in the estimated vacancies of the post of Assistant in a panel year shall be reserved for appointment of Steno-Typist Grade-III as Assistant by transfer. The aforesaid G.O. was made applicable to the Tamil Nadu Judicial Ministerial Service, as per Circular No.773A/02/C1, dated 13.03.2002 of the Registrar General of this Court.

27. The Learned Government Advocate projects for Respondent Nos.1, 2 4 and 5 a plea that in terms of G.O.Ms.No.34, P & A.R. (B) Department, dated 21.02.2001, an incumbent of the post of Steno-Typist Grade-III in the Tamil Nadu Judicial Ministerial

Service can either avail the option of appointment by transfer as Assistant in the same scale of pay and subsequent promotions thereafter in that line or can avail promotion as Steno-Typist Grade-II and then as Superintendent. Furthermore, he/she will be considered for appointment by transfer as Assistant or promotion as Steno-Typist Grade-II by virtue of the option exercised by the individual. Moreover, in terms of G.O.Ms.No.34, P & A.R. (B) Department, dated 21.02.2011, the Government took into account the ban period of eight years as qualifying service for Steno-Typist Grade-III for appointment as Assistant, and subsequently, in G.O.Ms.No.122, P & A.R. (B) Department, dated 02.09.2005, the Government reduced the period of qualifying service from eight years to five years for appointment made by transfer to the post of Assistant from the date of issue of G.O, dated 02.09.2005. The benefits of G.O.Ms.No.34, P & A.R. (B) Department, dated 21.02.2001 and G.O.Ms.No.122, P & A.R. (B) Department, dated 02.09.2005, were made applicable to the Tamil Nadu Judicial Ministerial Service, vide Circular Roc.No.773-A/2002/C1, dated 13.03.2001 and Circular 2982-A/2005/RAC, dated 21.11.2005 of the Registrar General of this Court respectively.

28. In the above scenario, the Learned Government Advocate for Respondent Nos.1, 2, 4 and 5 points out that as on 30.09.2008, out of a total number of about 587 Steno-Typists Grade-III working in the entire Subordinate Judiciary, nearly 64 Steno-Typists Grade-III have so far been appointed by transfer as Assistants from 21.02.2001. That apart, nearly 61 Steno-Typists Grade-III were not qualified, as they did not pass the Departmental Test for promotion as Assistant (excluding the Steno-Typist in 0-5 years of service) and nearly 69 of them had not exercised their option to switch over to Clerical cadre, since the scale of pay of both Steno-Typist Grade-III and Assistant in the Tamil Nadu Judicial Ministerial Service were equal, viz., Rs.4000-100-6000. An entry level Steno-Typist Grade-III without appointing as Assistant, is receiving the scale of pay of Assistant on his initial appointment itself. Accordingly, all the Government Orders and instructions as stated supra, had either provided promotional benefits or monetary benefits to the Steno-Typist Grade-III in the Tamil Nadu Judicial Ministerial Service. Viewed in that perspective, the plea of the Petitioner that the persons like him, who got re-designated as Steno-Typist Grade-III following G.O.Ms.No.256, dated 01.08.1992 continues to remain in the same position for a longer period, cannot be countenanced in the eye of Law.

29. The Learned Government Advocate takes a stand that in the Judicial Ministerial Service, a combined seniority list is being maintained by the Principal District Judges of the Districts concerned and the combined seniority list for Perambalur, Karur and Tiruchirapalli Districts was maintained by the Principal District Judge, Tiruchirapalli before trifurcation

of Districts. After the trifurcation of Districts, i.e. Tiruchirapalli, Karur and Perambalur, the combined seniority list is maintained in an individual manner by the Principal District Judge of each District concerned. The combined seniority list is classified category-wise as under:

(i) Personal Assistant to the District Judge:  
Scale of pay Rs.8000-275-13500.

(ii) Category I of Class IV of Tamil Nadu Judicial Ministerial Service:  
Scale of pay Rs.6500-200-10500.

(iii) Category II of Class IV of Tamil Nadu Judicial Ministerial Service:  
Scale of pay Rs.5700-175-9200.

(iv) Category III of Class IV of Tamil Nadu Judicial Ministerial Service:  
Scale of pay Rs.5700-175-9200.

(v) Category IV of Class IV of Tamil Nadu Judicial Ministerial Service.  
Scale of pay Rs.4000-100-6000.

(vi) Category IV of Class IV of Tamil Nadu Judicial Ministerial Service.  
Scale of pay Rs.4000-100-6000 (Steno-Typist).

(vii) Category V of Class IV of Tamil Nadu Judicial Ministerial Service  
Junior Assistant and Typist.  
Scale of pay : Rs.3200-85-4900.

(viii) Category VI of Class IV of the Tamil Nadu Judicial Ministerial Service  
Examiners of Copies and Readers.  
Scale of pay: Rs.3200-85-4900.

(ix) Class V of Tamil Nadu Judicial Ministerial Service - Senior Bailiffs.  
Scale of Pay. Rs.3200-85-4900.

(x) Class V of Tamil Nadu Judicial Ministerial Service - Copyists,  
Scale of pay : Rs.3200-85-4900.

(xi) Car Drivers: Scale of pay: Rs.3200-85-4900.

(xii) Tamil Nadu General Subordinate Service Record Clerks  
Category 2 of Class XXVI of Tamil Nadu Government  
Subordinate Service  
Scale of pay Rs.2610-60-3450-65-3540

(xiii) Category 2 of Class III of T.N.B.S. Copyists Attender:  
Scale of pay Rs.2550-50-2660-60-3200

(xiv) Category III of Class III of T.N.B.S.,  
Scale of pay : Rs.2650-65-3300-70-4000.  
Rs.3050-75-3950-80-4500 (Junior Bailiffs).

(xv) Category V of Class III of T.N.B.S. Office Assistant,  
Scale of pay Rs.2500-55-2660-60-3200

(xvi) Category VI of Class III of T.N.B.S. Masaichies  
Scale of pay Rs.2550-55-2660-60-3200

(xvii) Category XI of Class IV of T.N.B.S. Night Watchman  
Scale of Pay: Rs.2550-55-2660-60-3200.

30. The Learned Government Advocate points out that under Serial No.6 of the combined seniority maintained above, the petitioner-R.Ramesh, Steno-Typist, is placed in the 4th place of the seniority of the Steno-Typist, maintained by the Principal District Judge, Perambalur. There are three seniors waiting in the list for appointment by transfer to the post of Assistant and also are promoted to the higher categories whenever vacancy arises.

31. The Learned Government Advocate submits that the averment of the Petitioner that the Respondent Nos.6 to 14 are juniors to him, is not correct. Respondent No.6 - K.Kandeepan has completed 25 years of service. Respondent No.7 - M.S.Viswanathan has completed 26 years of service. Respondent No.8 - R.Rengarajan has completed 25 years of service. Respondent No.9 - K.Pugazhendhi has completed 18 years of service. Respondent No.10 - R.Selvaraj has completed 27 years of service. Respondent No.11 - K.Jayamurugan has completed 35 years of service. Respondent No.12 - R.Sekar has completed 16 years of service. Respondent No.13 - P.Subbu has completed 28 years of service and Respondent No.14 - S.Ramalingam has completed 22 years of service. But however, the Petitioner-R.Ramesh has completed only 15 years of service while comparing the service of the Respondent Nos.6 to 14.

32. The Learned Government Advocate contends that consequent upon the upgradation of 62 posts of Steno-Typist Grade-III under G.O.Ms.No.277, Home (Cts.V) Department, dated 20.02.1997, this Court has issued proceedings in Roc.No.1826/92/G2, dated

02.04.1997 for implementation of upgraded posts. Accordingly, 3 posts were allotted to the Principal District Judge and Additional District Judge of Tiruchirapalli District and one post to Labour Court, Tiruchirapalli, by this Court. At the time of such allotment, the Writ Petitioner has not reached the level for being upgraded as Steno-Typist Grade-II in the list for Tiruchirapalli District, and hence, he was not upgraded to the post on the basis of seniority.

33. The Learned Government Advocate emphatically pleads that in terms of G.O.Ms.No.34, P & A.R. Department, dated 21.02.2001, the ban order for appointment to the post of Assistant from the category of Steno-Typist Grade-III was lifted with effect from 05.08.2000. Further, the post of Steno-Typist Grade-III had been made eligible for appointment as Assistant by transfer to the extent of 5% of the estimated vacancies in the post of Assistant in a panel year. Therefore, the Petitioner has to wait for his turn for appointment by transfer as Assistant. This position was clarified under Clarification II of the Government Letter No.106657/Courts V/1/2005-2, dated 13.02.2006 addressed to the Third Respondent-Registrar General of this Court. Further, in the Reply to the clarification, it is stated that the estimate of vacancies for the post of Assistant, shall be examined in accordance with the existing Rules in force, i.e. General Rule 4 (a). Furthermore, the rotation prescribed for the post of Assistant should be a continuous one just like in the case of Communal Rotation. In short, the instructions issued in this regard are being followed carefully and appointments are made by the Principal District Judge, Perambalur, from time to time.

34. The Learned Government Advocate further points out that the promotions were made strictly based on seniority and the Petitioner has to wait for his turn. Further, after completion of ten years of service in the same post and completion of 20 years of service in the same post, the employees were awarded Selection Grade scale and Special Grade scale of pay respectively, as a monetary benefit like promotional scale. Because of these ground realities, the contra plea taken on behalf of the Petitioner is an incorrect one.

35. While winding up, it is the submission of the Learned Government Advocate that in respect of the Petitioner, his seniority was fixed separately in the cadre of 'Steno-Typist Grade-III' and there are three more seniors waiting for their turn for being promoted to the higher post and they cannot be overlooked in any manner. Furthermore, the Writ Petitioner is junior to the Respondent Nos.6 to 14. Also that he had not attained the level in the seniority list for being promoted to the higher post under "Rotation". In substance, it is the stand of the Respondent Nos.1 and 2 that the Petitioner's request would be considered in accordance with the Rules at the

appropriate time, based on his seniority and the Government Orders being issued from time to time, as and when he gets his turn.

36. On a careful consideration of the respective contentions of the parties and this Court looking into the entire gamut of the attendant facts and circumstances of the instant case, in a conspectus fashion, is of the considered view that the Petitioner being junior to Respondent Nos.6 to 14 and when he had not reached the level in the seniority list for being promoted to the higher post under "Rotation" and when the existing G.Os. are not in his favour, and also this Court, keeping in mind the primordial fact that his seniors are waiting for their turn for promotion and further that the Petitioner's request would be considered in accordance with the Rules at the appropriate time based on his seniority and the G.Os. issued from time to time, as stated by the Learned Government Advocate for the Respondent Nos.1 and 2, this Court comes to an irresistible and inevitable conclusion that the claim made by the Petitioner to assign appropriate seniority ranking to him in the post of Assistant in the line of his placement in the original combined seniority obtained prior to 01.08.1992 in accordance with Rule 35(a) of the Tamil Nadu State and Subordinate Service Rules, etc., is not acceded to by this Court, to prevent aberration of justice and in furtherance of substantial cause of notice. Looking at from any angle, the Writ Petition is devoid of merits.

37. In fine, the Writ Petition is dismissed, leaving the parties to bear their own costs.

Sd/-  
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. Secretary to Government,  
Personnel and Administrative Reforms (B) Department,  
Fort St. George, Chennai-600 009.
2. Secretary to Government,  
Home (Courts V) Department,  
Fort St. George, Chennai-600 009.
3. Registrar General,  
Madras High Court,  
Chennai.

4.The Principal District Judge,  
Tiruchirapalli District,  
Tiruchirapalli.

5.The District Judge,  
Perambalur District,  
Perambalur.

+1cc to Mr.N.Anbazhagan, Advocate, S.R.No.8530  
+1cc to the Government Pleader, S.R.No.8777

W.P.No.50093 of 2006

VSNII(CO)

rrs 27/02/2019



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